

IN THE
Supreme Court of the United States.

OCTOBER TERM, A. D. 1921

No.

T. B. STAFFORD AND S. B. STAFFORD, COPARTNERS, DOING
BUSINESS AS STAFFORD BROS., ET AL.,
Appellants,

vs.

HENRY C. WALLACE, SECRETARY OF AGRICULTURE, AND
CHARLES F. CLYNE, UNITED STATES ATTORNEY FOR THE
NORTHERN DISTRICT OF ILLINOIS,
Appellees.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION.

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T. B. STAFFORD AND S. B. STAFFORD, COPARTNERS, DOING
BUSINESS AS STAFFORD BROS., ET AL.

vs.

HENRY C. WALLACE, SECRETARY OF AGRICULTURE, AND CHARLES
F. CLYNE, UNITED STATES ATTORNEY FOR THE NORTHERN DIS-
TRICT OF ILLINOIS.

Pleas in the District Court of the United States for the Northern District of Illinois, Eastern Division, begun and held at the United States Court Room, in the City of Chicago, in said District and Division, before the Honorable Kenesaw M. Landis, District Judge of the United States for the Northern District of Illinois, Louis FitzHenry District Judge of the United States for the Southern District of Illinois, and Evan A. Evans, Circuit Judge of the United States for the Seventh Judicial Circuit, on Wednesday, the 28th day of December, in the year of our Lord one thousand nine hundred and twenty-one, being one of the days of the regular December Term of said Court, begun Monday, the 19th day of December and of our Independence the 146th year.

Present :

Honorable Kenesaw M. Landis, District Judge.

Honorable Louis Fitz Henry, District Judge.

Honorable Evan A. Evans, Circuit Judge.

John J. Bradley, U. S. Marshal.

John H. R. Jamar, Clerk.

IN THE DISTRICT COURT OF THE UNITED STATES
Northern District of Illinois
Eastern Division

T. B. Stafford and S. B. Stafford, Co- partners, doing business as Staf- ford Brothers <i>et al.</i> ,	} Plaintiffs	No. 2498.
<i>vs.</i>		
Henry C. Wallace, Secretary of Agriculture, and Charles F. Clyne, United States Attorney for the Northern District of Illinois,	} Defendants.	

Be it remembered that heretofore, to-wit: on the 28th day of November, 1921, came the above named complainants, by their solicitors, and filed their bill of complaint, as follows:

IN THE DISTRICT COURT OF THE UNITED STATES
For the Northern District of Illinois,
Eastern Division.

T. B. Stafford and S. B. Stafford, Co- partners, doing business as Staf- ford Brothers <i>et al.</i> ,	} In Equity.	No. 2498.
<i>vs.</i>		
Henry C. Wallace, Secretary of Agriculture, Charles F. Clyne, United States Attorney for the Northern District of Illinois,	}	

To the Honorable, the Judges of the District Court of the United States in Chancery sitting:

I.

The plaintiffs, T. B. Stafford and S. B. Stafford, copartners, doing business as Stafford Brothers; D. L. Trout and F. L. Trout, copartners, doing business as Trout Live Stock

Commission Co.; G. L. Wheeler and S. K. Polley, copartners, doing business as Emmett, Wheeler & Polley; N. W. Cochran, A. M. Henneberry and R. W. Wallace, copartners, doing business as Cochran & Henneberry; George W. Von Berner and Harry L. Dunning, copartners, doing business as Von Berner, Dunning & Co.; J. P. Maley and H. L. Carpenter, copartners, doing business as Maley, Carpenter & Co.; H. J. Whalen and H. P. Siet, copartners, doing business as Whalen, Siet & Co.; W. H. Sherwood and R. H. Sherwood, copartners, doing business as Harry Sherwood & Son; C. S. Horn, W. H. Chisholm, L. B. Yancey and M. M. McIlhany, copartners, doing business as Horn-Yancey-Chisholm Co.; S. G. Gillogly, R. E. Gillogly, F. D. Gillogly and M. W. Gillogly, copartners, doing business as Gillogly & Co.; Kay Wood and Charles A. Wood, copartners, doing business as Wood Brothers; T. Tipton, E. M. Steck and W. P. Herrick, copartners, doing business as Tipton, Steck & Herrick; G. R. Sinclair and C. H. Gillett, copartners, doing business as Sinclair, Gillett & Co.; P. T. Dolan and F. C. Ludeman, copartners, doing business as Dolan, Ludeman & Co.; F. W. Sheldon and J. P. Sarsfield, copartners, doing business as Sheldon & Sarsfield Commission Co.; W. P. Collings and F. J. Collings, copartners, doing business as W. P. Collings & Sons; J. P. Shinn, I. O. Fry and C. H. Moberly, copartners, doing business as Shinn, Fry & Moberly; Wm. Gentleman, Wm. M. Gentleman, A. M. Gentleman, C. F. Gentleman and G. J. Gentleman, copartners, doing business as Wm. Gentleman & Sons; E. L. Clark and Louis Armbrecht, copartners, doing business as Clark, Armbrecht & Co.; P. A. Filler, P. W. Wilson and G. H. McClelland, copartners, doing business as Filler, Wilson & McClelland; J. J. Sullivan and J. C. Sullivan, copartners, doing business as Sullivan Commission Co.; Curtis A. Wood and Walter R. Wood, copartners, doing business as Curtis A. Wood & Co.; G. S. Freeman and P. J. Fitzgerald, copartners, doing business as Freeman, Fitzgerald & Co.; John E. Quinn and J. B. Cahill, copartners, doing business as Quinn & Cahill; Everett C. Brown and S. B. St. John, copartners, doing business as Brown-St. John Company; J. F. Cross and H. G. Sommers, copartners, doing business as Cross, Sommers & Co.; O. A. Rice and C. R. Rice, copartners, doing business as Rice Bros.; E. H. Baker, A. C. Baker and F. L. Heyne, copartners, doing business as Baker, Heyne & Co.; C. H. Stephens and J. A. Goble, copartners, doing business as Stephens, Goble & Co.; John Clay, C. O. Robinson,

C. A. Kleman, F. H. Connor and John G. Forrest, copartners, doing business as Clay, Robinson & Co.; John T. Martin, James G. Martin, George E. Martin and W. S. Burmister, copartners, doing business as Martin Brothers & Co.; W. W. Wilson and C. A. Wilson, copartners, doing business as W. W. Wilson & Co.; Wm. R. Smith, John Smith and J. C. Eastes, copartners, doing business as W. R. Smith & Son; J. E. Strader and J. L. Strader, copartners, doing business as Strader Bros.; I. W. Knettle and E. Knettle, copartners, doing business as Knettle Bros.; George J. Adams and A. W. Kitchen, copartners, doing business as Adams & Kitchen; H. E. Thompson and C. N. Ball, copartners, doing business as Thompson & Ball; George M. Brownson and J. L. Ettlinger, copartners, doing business as Brownson & Ettlinger; A. A. Walters, C. A. Dunbar and J. H. Dunbar, copartners, doing business as Walters & Dunbar; W. A. Peterson and Wm. Turnbull, copartners, doing business as Peterson, Turnbull & Co.; John G. Adler and A. E. Adler, copartners, doing business as Adler Sons & Co.; A. F. Starrett, Jr., O. A. Mathison, A. C. Granger and M. E. Peschong, copartners, doing business as Starrett, Mathison & Co.; J. B. Roach and W. P. Roach, copartners, doing business as Roach Live Stock Commission Co.; C. M. Godfrey and D. T. Stockdale, copartners, doing business as Godfrey & Stockdale; Silas Palmer and W. H. Palmer, copartners, doing business as Silas Palmer & Sons; C. L. Swanson, A. Gilmore, and C. J. Castenholz, copartners, doing business as Swanson, Gilmore & Castenholz; J. D. Smittle and J. C. Riley, copartners, doing business as Smittle & Riley; A. Wertheimer, E. H. Ingwersen, A. C. Bonoff, J. H. Ingwersen, D. C. Mosier, D. R. Ingwersen and H. K. Wertheimer, copartners, doing business as Ingwersen Bros.; George F. Hogan, doing business as George F. Hogan & Co.; T. B. Vincent, doing business as Paris Commission Co.; C. L. Burnett, doing business as Abe Burnett & Co.; E. A. Clark, doing business as Clark, Bowles & Co.; S. S. Driver, doing business as S. S. Driver & Co.; Will J. Nalley, doing business as Will J. Nalley & Co.; B. F. Hubbard, doing business as Minter, Hubbard & Co.; J. H. Piatt, doing business as Abner Piatt & Co.; W. C. Patterson, doing business as John Patterson & Son; James W. Eastland, doing business as James W. Eastland & Co.; M. B. Johns, doing business as M. B. Johns & Co.; R. H. Pritchard, doing business as Pritchard Commission Co.; T. C. McDermott, doing business as T. C. McDermott & Co.; W. E. Young, doing

business as W. E. Young & Co.; G. B. Van Norman, doing business as G. B. Van Norman & Co.; Earl H. Kuenster, doing business as Kuenster Live Stock Commission Co.; Frank R. Mullen, doing business as Mullen Commission Co.; W. H. Walter, doing business as Walter Bros.; R. S. Murray, doing business as Murray & McDowell; James L. Evans, doing business as James L. Evans & Co.; Abe Russell, doing business as Abe Russell & Co.; L. Spencer, doing business as L. Spencer & Co.; Fred Freeman, doing business as Fred Freeman & Co.; A. F. Steward, doing business as A. F. Steward & Co.; Charles E. Harding, doing business as Chas. E. Harding & Co.; James R. Clegg, doing business as James R. Clegg & Co.; Jet Wimp, doing business as Jet Wimp & Co.; R. C. Bohart, doing business as R. C. Bohart & Co.; William Frow; A. B. Daniels; L. B. Werden, Chris A. Ingwersen; and John A. Babcock respectfully represent unto your Honors that they are citizens of the State of Illinois, residing in the City of Chicago, in the Northern District of Illinois.

The plaintiffs, Rosenbaum Brothers & Co., a corporation; Drovers Commission Co., a corporation; J. M. Doud & Co., a corporation; Evans, Snider, Buel Commission Co., a corporation; Miller, White & Woods, a corporation; Nixon Live Stock Commission Co., a corporation; Alexander, Conover & Martin, a corporation; Hefner Commission Co., a corporation; Lawler Bros. & Co., a corporation; Stockmens Live Stock Commission Co., a corporation; Central Live Stock Commission Co., a corporation; Swiney Bros., a corporation; Standard Live Stock Commission Co., a corporation; McCausland, Hoag & Vaughan, a corporation; Iowa Live Stock Commission Co., a corporation; Northwestern Live Stock Commission Co., a corporation; Conklin Bros. Commission Co., a corporation; H. D. Copeland & Co., a corporation; National Live Stock Commission Co., a corporation; North American Live Stock Commission Co., a corporation, respectfully represent unto your Honors that each of them is a corporation organized under the laws of the State of Illinois and that they are severally citizens and residents of the said State, having their several principal offices in the City of Chicago, in the Northern District of Illinois.

The plaintiff, Byers Bros. & Co. Live Stock Commission Corporation, respectfully represents unto your Honors that it is a corporation organized under the laws of the State of

Missouri and is a citizen and resident of the State of Missouri and that it has its principal office and place of business in the City of Chicago, in the Northern District of Illinois.

The plaintiff, Lee Live Stock Commission Co., respectfully represents unto your Honors that it is a corporation organized under the laws of the State of Iowa; that it is a citizen and resident of the State of Iowa, and that it has its principal place of business in the City of Chicago, in the Northern District of Illinois.

The plaintiff, Bowles Live Stock Commission Co., respectfully represents unto your Honors that it is a corporation organized under the laws of the State of West Virginia; that it is a citizen and resident of the State of West Virginia, and that it has its principal office and place of business in the City of Chicago, in the Northern District of Illinois.

And plaintiffs further aver that they, and each of them, are individually engaged in competition with each other in the business of Live Stock Commission Merchants at the Union Stock Yards in Chicago, Illinois, as hereinafter in this bill of complaint described; that they, and each of them, have been so engaged in said business for a number of years last past; that they have a common interest in the matters and things hereinafter in this bill of complaint set forth; that they, therefore, join in this action for the purpose of protecting their individual rights and interests, and to avoid the multiplicity of suits which would result from the separate suit of each of the plaintiffs in the premises, and that they, individually, each for himself and itself, aver as follows, to wit:

II.

Plaintiffs bring this bill for and on behalf of themselves individually and for and upon behalf of all other persons, firms or corporations similarly situated, engaged in the business of selling live stock on commission in public stockyards in the said Northern District of Illinois, and who wish to join in this bill and become parties hereto.

III.

Plaintiffs aver that the defendant Henry C. Wallace is the duly appointed Secretary of Agriculture of the United

States, and is now occupying and discharging the duties of that position and is a resident of the City of Washington in the District of Columbia.

Plaintiffs aver that the defendant Charles F. Clyne is the duly appointed United States Attorney in and for the Northern District of Illinois, and is now acting as such United States Attorney in and for said Northern District of Illinois, and is a resident of Chicago, Illinois.

Plaintiffs aver that under and by virtue of an Act of Congress entitled "An Act to Regulate Interstate and Foreign Commerce in live stock, live stock products, dairy products, poultry, poultry products, and eggs, and for other purposes," otherwise known as the Packers and Stockyards Act of 1921, now in force and effect, the said defendant, Henry C. Wallace, is authorized and directed to assume a supervisory control and management over the business of plaintiffs and is authorized and directed to make certain rules and regulations for the conduct, control and management of the business of plaintiffs, and said act further requires plaintiffs, as a condition to their continuing to carry on their business without becoming liable to the assessment of heavy fines and penalties, to comply with certain directions in said act under such regulations as may be adopted by said defendant, Henry C. Wallace, in respect to registering with said Secretary of Agriculture on or before the thirtieth day of November, 1921.

Plaintiffs aver that the defendant, Charles F. Clyne is, under specific provisions of said Packers and Stockyards Act of 1921, required to begin proceedings in the Northern District of Illinois for the collection and enforcement of the penalties provided by said act for any infraction thereof either by way of civil suit or criminal prosecution as provided in said act.

IV.

Plaintiffs aver that this suit arises under the Constitution and laws of the United States and involves the validity, construction, application and enforcement of said Act of Congress known as the Packers and Stock Yards Act of 1921, and plaintiffs aver that the matter in controversy herein exceeds, exclusive of interest and costs, the sum or value of three thousand (\$3,000) dollars.

V.

Plaintiffs aver that the Union Stock Yards at Chicago, Illinois, is a live stock market in which cattle, calves, sheep, swine and goats consigned to various persons at said stockyards from various points in the United States are dealt in, bought and sold; that the business of plaintiffs consist in the receiving, buying, selling and handling upon a commission basis of such live stock for the account of other persons, such commission being paid to plaintiffs upon an established per head rate for the services performed by plaintiffs in buying, selling, handling, and caring for such live stock at the said Union Stock Yards, Chicago; that the plaintiffs have no part in or control over the disposition of live stock sold by them to others, nor of live stock purchased by them as commission merchants acting for others; that the sole compensation received by plaintiffs for their services, above described, is the commission paid, which is deducted by plaintiffs from the proceeds of the sale and the balance remitted to their customers and shippers respectively; that the business of plaintiffs is merely assisting the owner of live stock in finding a market therefor, and that the amount of such commission collected by the plaintiffs, and each of them, is in no way dependent upon or related to the amount of money for which said live stock are bought or sold upon the market at the Union Stock Yards, Chicago, and is in no way connected with or related to the transportation in commerce, either from points within the State of Illinois or from points outside of the State of Illinois to said Union Stock Yards at Chicago, or from the said Union Stock Yards at Chicago to points outside the State of Illinois, and that such commission charges are in no way whatever affected by the fact of a consignment of live stock being either in whole or in part an interstate or an intrastate shipment, and plaintiffs further aver that live stock is shipped to them and each of them by their customers or shippers to be sold by plaintiffs, as live stock commission merchants, upon the open market at the Union Stock Yards, Chicago, Illinois, to the highest bidder for cash, and that the duty of plaintiffs, and each of them, is to sell shipments of live stock thus consigned to them by the owners thereof for the purpose aforesaid and arrange for their care and handling, including proper feeding and watering, and to sell such live stock upon the open market to the highest bidder therefor, using

their skill, judgment and experience as live stock salesmen to secure the highest price possible in a competitive market for such live stock and to remit to the owner or consignor of such live stock the balance of the proceeds realized from the sale thereof as promptly as possible after deducting their commission charges, freight, and yardage charges paid by plaintiffs in connection with the handling, feeding and care of such live stock pending their sale, and plaintiffs aver that in carrying on their said business they compete with each other and with other market agencies in the buying and selling of live stock upon said public market at Chicago, Illinois.

And plaintiffs aver that in the performance of their duties, they act merely as the intermediaries between the purchaser and seller and that their sole interest in, and connection with, the handling and care of the live stock which comes into their hands is to secure for the owner the best available price upon the open market and to purchase for their principals the live stock which may be desired at the lowest procurable price upon the open market, and the plaintiffs aver that the services performed by them are of the same character as above described, whether the shipment be in whole or in part of an interstate or intrastate character.

And plaintiffs aver that the services performed by them are no part of commerce in live stock, and that the price charged by plaintiffs for such services has no relation to, effect or bearing upon, the price at which such live stock is bought or sold or the cost of transportation thereof.

Plaintiffs further aver that the services performed by them for and in respect of live stock as aforesaid are performed wholly within the Northern District of Illinois, and within the State of Illinois, to wit: at the Union Stock Yards, Chicago, Illinois, and that the business of plaintiffs does not involve the dealing in or handling of any commodity in interstate commerce upon their own account, but solely the affording of facilities and the rendering of services at said Union Stock Yards in Chicago in respect to the handling and care of such live stock, and plaintiffs aver that they have no control whatever over said live stock or the disposition thereof after sale or purchase, and have nothing whatever to do with said live stock prior to its coming into their possession at the Union Stock Yards in Chicago, or after it leaves their possession at said Union Stock Yards, Chicago.

VI.

Plaintiffs aver that said Act of Congress known as the Packers and Stock Yards Act of 1921, is divided into four titles. Title I is devoted to the definition of terms used in the act; Title II has various provisions concerning the business of packers; Title III contains provisions concerning stockyards and market agencies, and Title IV contains general provisions applicable to all persons claimed to be brought under the operation of the statute.

Plaintiffs aver that jurisdiction to supervise, control and manage the business of plaintiffs in the matter of the services performed by them, the rates and schedules of charges to be made for such services, supervision and inspection of their accounts with customers and others and the conduct of their business generally is claimed and is now being exercised by the defendant, Henry C. Wallace, Secretary of Agriculture, under the provisions of Title III of said act, and plaintiffs aver that Title IV of said act also contains requirements to be complied with by them in the conduct of their business and prescribes penalties for violations by the plaintiffs of any of the requirements of Titles III and IV by them.

Plaintiffs further aver that Section 301 of said Title III defines the term "stockyards services" as follows:

"(b) The term 'stockyard services' means services or facilities furnished at a stockyard in connection with the receiving, buying or selling on a commission basis or otherwise, marketing, feeding, watering, holding, delivery, shipment, weighing, or handling, in commerce, of live stock";

Plaintiffs further aver that the term "market agency" is defined in said act as follows:

"(c) The term 'market agency' means any person engaged in the business of (1) buying or selling in commerce live stock at a stockyard on a commission basis or (2) furnishing stockyard services";

Plaintiffs further aver that it is claimed by the said defendant Henry C. Wallace under the foregoing language of said act that each of said plaintiffs is a "market agency" and therefore subject to the provisions of said act and that said defendant Henry C. Wallace, Secretary of Agriculture, pursuant to said claimed authority, has caused to be sent

and delivered to the plaintiffs certain blanks and forms of reports to be filled out and filed with said Secretary of Agriculture by the plaintiffs, among others a so-called form of registration blank—a copy of which is hereto attached and marked "Exhibit A."

Plaintiffs further aver that Section 302 of said Title III defines a "stockyard" as follows:

"(a) When used in this title the term 'stockyard' means any place, establishment, or facility commonly known as 'stockyard' conducted or operated for compensation or profit as a public market, consisting of pens, or other enclosures, and their appurtenances, in which live cattle, sheep, swine, horses, mules, or goats are received, held, or kept for sale for shipment in commerce. This title shall not apply to a stockyard of which the area normally available in handling live stock, exclusive of runs, alleys, or passageways, is less than 20,000 square feet."

Plaintiffs further aver that the Union Stock Yards at Chicago at which they are engaged in business, as aforesaid, falls within the description of "stockyard" as set out in said act.

Plaintiffs further aver that paragraph (b) of said Section 302 gives to the Secretary of Agriculture the right to determine what stockyards come within the definition contained in paragraph (a) of said Section 302 and to give public notice by posting a copy of a notice in the stockyard, and that said paragraph (b) further provides as follows:

"After the giving of such notice to the stockyard owner and to the public, the stockyard shall remain subject to the provisions of this title until like notice is given by the Secretary that such stockyard no longer comes within the foregoing definition."

Plaintiffs further aver that on, to wit, November 1, 1921, the said defendant, Henry C. Wallace, Secretary of Agriculture, gave notice to the owner of the said Union Stock Yards at Chicago wherein plaintiffs are engaged in business that said Union Stock Yards were subject to the provisions of said Title III of said Act of Congress, and plaintiffs aver that said Secretary of Agriculture also posted publicly in said Union Stock Yards at Chicago a notice to the effect that said stockyard from and after said first day of November, 1921, was under the supervision and control of said Secretary of Agriculture pursuant to the provisions of said Act of Congress.

Plaintiffs further aver that Section 303 of said Title III of said Act of Congress provides as follows:

"After the expiration of thirty days after the Secretary has given public notice that any stockyard is within the definition of Section 302, by posting copies of such notice in the stockyard, no person shall carry on the business of a market agency or dealer at such stockyard unless he has registered with the Secretary under such rules and regulations as the Secretary may prescribe, his name and address, the character of business in which he is engaged and the kinds of stockyard services, if any, which he furnishes at such stockyard."

Plaintiffs further aver that in pursuance of the authority claimed to be conferred upon him by virtue of said Section 303, the said defendant, Henry C. Wallace, as Secretary of Agriculture, has directed the plaintiffs and all other market agencies similarly situated to register with him on or before the expiration of thirty days from said November 1, 1921, the date of posting aforesaid, upon blanks furnished, and to be furnished, to the plaintiffs and other market agencies by said Secretary of Agriculture, and plaintiffs aver that said Secretary of Agriculture has sent and caused to be sent to plaintiffs for their use in so registering as aforesaid blanks for that purpose—a copy of which is hereto attached as "Exhibit A."

Plaintiffs further aver that in pursuance of such claimed authority under said Section 303 the said defendant Secretary of Agriculture has caused to be issued and promulgated a certain regulation which has been brought to the notice and attention of plaintiffs in the following language:

"Registration (Section 303, Title III) by market agencies and dealers shall be accomplished by properly filling out and delivering to the Packers and Stockyards Administration at Washington, D. C., by mail or otherwise, a form which will be furnished upon request for the purpose."

Plaintiffs further aver that said Section 303 contains also the following provision:

"Whoever violates the provisions of this section shall be liable to a penalty of not more than \$500 for each such offense and not more than \$25 for each day it continues, which shall accrue to the United States and may be recovered in a civil action brought by the United States."

Plaintiffs further aver that paragraph (b) of Section 314 of Title III of said act provides as follows:

"It shall be the duty of the various district attorneys, under the directions of the Attorney General, to prosecute for the recovery of forfeiture. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States."

Plaintiffs further aver that the provisions of said Section 303, coupled with the direction and regulation of the Secretary of Agriculture above referred to requiring plaintiffs and other market agencies to register on or before the thirtieth day of November, 1921, attempt to impose upon plaintiffs and other market agencies the duty of registering with said Secretary of Agriculture in the form prescribed by him on or before said November 30, 1921, and for failure of plaintiffs so to do the said statute requires that they shall discontinue carrying on their business as market agencies and for failure to so discontinue carrying on their business without registering as aforesaid, the plaintiffs, and each of them, are made liable to a penalty of \$500 and an additional penalty of \$25 for each day that each of them carries on business without registering as aforesaid.

Plaintiffs further aver that by the provisions of said Section 314 above set out it is made the duty of the defendant, Charles F. Clyne, United States Attorney in and for the Northern District of Illinois, to institute proceedings against plaintiffs and other market agencies similarly situated to recover said penalties provided by the statute for carrying on business without registering as aforesaid.

VII.

Plaintiffs further aver that said Title III of said act contains numerous other provisions regulating, governing and controlling the conduct of the business of plaintiffs, all of which provisions, and Title III and Title IV of said act in their entirety, are claimed by the plaintiffs to be invalid and constitute and will constitute the exercise of a power by Congress and the Secretary of Agriculture not justified by the Constitution of the United States and in violation of the rights of plaintiffs as citizens of the United States under the Constitution, a number of which provisions are now claimed to be in force and a number by their terms will become opera-

tive in the very near future. Plaintiffs aver, among others, that the following provisions purport to give to said Secretary of Agriculture authority in respect to the management and conduct of the business of plaintiffs, to wit:

Section 304 of said Title III makes it the duty of every market agency to furnish upon reasonable request, without discrimination, reasonable stockyard services at such stockyard.

Plaintiffs aver that the business in which they, and each of them, are engaged is a private business, not impressed with a public use, and that plaintiffs, and each of them, have the lawful right at any and all times to deal with and to refrain from dealing with whomsoever they may wish and have the lawful right to select their own customers.

Section 305 of said Title III requires that all rates and charges for stockyard services furnished by a market agency shall be just, reasonable and nondiscriminatory and provides that any unjust, unreasonable or discriminatory rate or charge is prohibited and declared to be unlawful.

Plaintiffs aver and claim that the services performed by them and each of them are their own personal services and that they and each of them in his, their or its own right has the lawful right to determine by bargain or negotiation with his, their or its customers, what charge or rate or commission he, they or it may collect for such services and that the question of reasonableness of the rates to be paid or charged is a question to be determined between the commission man and his customers.

Section 306 of said Title III requires that within sixty days after the publication of notice that a stockyard is within the definition of Section 302 of said title every market agency at such stockyard shall file with such Secretary and print and keep open for public inspection at the stockyard schedules showing all rates and charges for the stockyard services furnished by such market agency at such stockyard and provides further that such schedules shall plainly state all such rates and charges in such detail as the Secretary may require and also any rules or regulations which in any manner change, affect or determine any part or the aggregate of such rates and charges or the value of such stockyard services furnished. Said section also authorizes the Secretary to determine and prescribe the form and manner in which such schedule shall

be prepared, arranged and posted and to make such changes in respect thereto as may be found by him to be expedient from time to time.

Said Section 306 also provides that no changes shall be made in such rates or charges except after ten days' notice to the Secretary and to the public unless the Secretary for good cause shown allows changes on less than ten days' notice.

Said Section 306, paragraph (d), gives the Secretary the right to reject and refuse to file any schedule which does not so provide and give lawful notice of its effective date and that such schedule if rejected shall be void and its use unlawful.

Said Section 306, paragraph (e), gives to the Secretary, in the event of any schedule being filed stating a new rate or charge or a new regulation or practice affecting any rate or charge, the right to conduct a hearing concerning the lawfulness of such rate, charge, regulation or practice and the right to suspend the operation of such schedule and defer the use of such rate, charge, regulation or practice pending such hearing and decision.

Said Section 306 further provides in paragraph (f) that no person shall carry on the business of a market agency after the expiration of sixty days from the date of posting of notices aforesaid unless such schedules of rates and charges have been filed and published, and prohibits the collection of a greater or less or different compensation for said services than such published rates and charges contained in such schedule and prohibits the refunding or remitting in any manner any portion of the rates or charges so specified, and also provides, "but this shall not prohibit a co-operative association of producers from bona fide returning to its members on a patronage basis its excess earnings on their live stock subject to such regulations as the Secretary may prescribe."

Said Section 306, paragraph (g), further provides that a failure to comply with its provisions or any regulation or order of the Secretary made thereunder shall cause the market agencies to be liable to a penalty of not more than \$500 for each such offense and not more than \$25 for each day it continues, to be recovered in a civil action brought by the United States.

Said Section 306, paragraph (h), further provides as follows:

"Whoever willfully fails to comply with the provisions of this schedule or of any regulation or order of the Secretary made thereunder shall on conviction be fined not more than \$1,000 or imprisoned for not more than one year, or both."

Plaintiffs further aver that the power attempted to be conferred by the act upon the said Secretary of Agriculture to fix, regulate or in any manner determine the rates and schedules of commission charges of plaintiffs is without authority of law and constitutes an illegal invasion of the right of plaintiffs individually to fix and determine the rates, commissions and charges acceptable to them individually for the performance of their respective services in the business in which they are engaged hereinabove described.

Plaintiffs further aver that Title IV of said Act of Congress contains the following:

(Section 401) "Every packer, stockyard owner, market agency, and dealer shall keep such accounts, records, and memoranda as fully and correctly disclose all transactions involved in his business, including the true ownership of such business by stockholding or otherwise. Whenever the Secretary finds that the accounts, records, and memoranda of any such person do not fully and correctly disclose all transactions involved in his business, the Secretary may prescribe the manner and form in which such accounts, records, and memoranda shall be kept, and thereafter any such person who fails to keep such accounts, records, and memoranda in the manner and form prescribed or approved by the Secretary shall upon conviction be fined not more than \$5,000, or imprisoned not more than three years, or both."

Plaintiffs further aver that the power attempted to be conferred upon the Secretary to require plaintiffs to keep accounts, records and memoranda referred to in said Section 401 in the manner prescribed by the Secretary and in form as prescribed by him and providing that a failure on the part of plaintiffs so to do shall make them liable to a fine of not more than \$5,000, or imprisonment for not more than three years, or both, is an invasion of the constitutional rights of plaintiffs and without authority of law and the exercise of such power would and does constitute an illegal search and seizure of the private books, papers, and memoranda of plaintiffs used by them in the conduct of their

own private business and is a violation of the rights of plaintiffs to be secure in the possession and use of such private papers, records, books and memoranda.

VIII.

Plaintiffs further aver that the live stock commission business in which they and each of them are engaged constitutes the sole and only source of revenue and means of livelihood of the plaintiffs, and that any unlawful interference with the control, management or conduct of said business would and will result in immediate and irreparable damage to said plaintiffs and each of them; and plaintiffs aver that under the provisions of said Section 303 of Title III of said Packers and Stockyards Act of 1921, plaintiffs and all other market agencies are prohibited from carrying on the business of a market agency unless plaintiffs shall have registered with the Secretary of Agriculture before the expiration of thirty days from the posting of public notice in the Union Stock Yards as hereinabove recited. And plaintiffs aver that said thirty-day period will expire on the 30th day of November, 1921.

Plaintiffs further aver that said Secretary of Agriculture has issued a regulation, hereinabove set out, and has furnished to plaintiffs forms to be used for registering under said act (a copy of which form is attached hereto as "Exhibit A"), and that the said defendant, the Secretary of Agriculture, in the event of a failure on the part of the plaintiffs, or any of them, to register upon said forms and in accordance with the provisions of said Section 303 of said act upon or before the 30th day of November, 1921, and in the event that the plaintiffs, or either of them, should continue to carry on their business without so registering, as aforesaid, after said 30th day of November, 1921, will cause such facts to be brought to the attention of the defendant, Charles F. Clyne, United States Attorney in and for the Northern District of Illinois; and that plaintiffs verily believe and fear that said defendant, Charles F. Clyne, United States Attorney, will cause suits to be instituted against the plaintiffs to recover the penalties provided by said Section 303 for carrying on their business after November 30, 1921, without having registered as aforesaid.

And plaintiffs aver that such action of the Secretary of Agriculture in requiring them and each of them to register,

as aforesaid, is an illegal and invalid requirement, and that said Section 303 of said Act of Congress is an invalid enactment, and unconstitutional and void, and confers no rightful authority or power upon said Secretary of Agriculture to require plaintiffs, or any of them, to register with him as a condition to their carrying on business because they say that said Section 303 of said act and each and every provision of said Section 303 of said act and each and every provision of said Title III and of Title IV of said act, in so far as such provisions affect or attempt to affect the business of plaintiffs and the conduct of their business by plaintiffs and each of them, are without lawful effect and void and without authority for their enactment under the Constitution of the United States for the reason that said act in its title purports "to regulate interstate and foreign commerce in live stock," etc.

And plaintiffs aver that they are not engaged in interstate commerce, and allege that their sole business, and that of each of them, is the hiring of their services in the buying and selling and caring for and handling of live stock over whose shipment from point of origin or to point of destination they have no control whatever, which services are performed entirely within the State of Illinois in respect to each and every shipment handled by them and each of them at said Union Stock Yards, Chicago, Illinois.

Plaintiffs further aver that each of the provisions of said Title III and said Title IV of said Packers and Stockyards Act of 1921, in so far as they, or any of them, affect or relate to the management, control, supervision or conduct in any way whatever of the business of plaintiffs as now conducted by them and as hereinabove described, are, and each of them is, unconstitutional and invalid because the business of plaintiffs and each of them is not an interstate business and the plaintiffs and each of them are not engaged in interstate commerce, as aforesaid.

And plaintiffs aver that Congress is without authority under the Constitution to legislate in respect to purely intrastate commerce, the right to legislate concerning that commerce having been reserved to the states respectively and not ceded or granted by them to the United States.

The plaintiffs aver that, unless restrained by the injunction of this Honorable Court, they fear and verily believe that the defendants, the said Henry C. Wallace, Secretary of Agriculture, and said Charles F. Clyne, United States

Attorney for the Northern District of Illinois, will proceed to enforce all of the provisions of said Title III and said Title IV of said Packers and Stockyards Act of 1921 against the plaintiffs and compel compliance therewith by the plaintiffs and each of them, and particularly the said plaintiffs allege that they fear and verily believe that, unless restrained by the injunction of this Honorable Court, the said defendant, Henry C. Wallace, Secretary of Agriculture, will compel the plaintiffs and each of them to comply with the provisions of said Section 303 of said Title III and register with said Secretary of Agriculture upon the form supplied by him, as aforesaid, and that, unless the plaintiffs and each of them comply with such unlawful requirement, and unless the plaintiffs and each of them cease and desist from carrying on business after November 30, 1921, compliance not having been made by them on or before that date with said unlawful requirement of the Secretary of Agriculture and the unlawful requirement of said Section 303 of said Title III of said act, the said Secretary of Agriculture will request and direct the institution of proceedings against the plaintiffs and each of them by the defendant, Charles F. Clyne, United States Attorney for the Northern District of Illinois, to enforce the collection of the penalties provided by said Section 303 for the carrying on of business after failure to register, which penalties are excessive and cumulative and, as shown by the section hereinabove in this bill set out, are as to each plaintiff the sum of \$500, and in addition thereto the sum of \$25 for each day that failure to comply with the provisions of said Section 303 continues. And plaintiffs aver that the penalties and punishments provided for any infraction of said Section 303 of said Title III, being cumulative in character, are so excessive and harsh as to require the intervention of a court of equity to prevent their imposition pending the determination by the court of the question of the constitutionality of said Section 303 and other sections of said Title III as hereinabove referred to. Plaintiffs aver that there is no adequate remedy at law by which their constitutional rights may be protected from the enforcement of the provisions of said Packers and Stockyards Act of 1921, which are intended to affect the business of plaintiffs and the plaintiffs in the conduct thereof, and no opportunity afforded plaintiffs in a proceeding at law to test said questions of constitutionality and validity without the plaintiffs being compelled to violate the said Section 303 and being compelled, in the event that said Section 303 of

Title III should be upheld as a constitutional enactment, to pay heavy and excessive penalties of a cumulative character.

IX.

And plaintiffs further aver that the defendant, the Secretary of Agriculture, is given authority under the provisions of said Title III and Title IV of said act to make rules, regulations and orders to carry into effect the provisions, and each of them, of said act, and that such rules and regulations are now being prepared by said Secretary of Agriculture, and that said Secretary of Agriculture has already issued and called to the attention of the plaintiffs and each of them, and other market agencies in the United States, certain proposed regulations, which in their present form, or as they may be later modified or changed in the discretion of the Secretary of Agriculture, may become at any moment effective, a copy of which said proposed regulations thus issued and promulgated by the said Secretary of Agriculture is hereto attached as "Exhibit B."

And plaintiffs aver that they do not know and have no available means of knowing whether there will be any change or modification whatever in respect to said proposed rules and regulations; and plaintiffs aver that they fear that the regulations in the form of the proposed regulations will be at any moment promulgated and compliance with said rules and regulations be required of the plaintiffs and each of them.

And plaintiffs particularly fear the adoption and enforcement immediately or presently of proposed Regulation No. 22, which reads as follows:

"A stockyard owner or registrant shall not knowingly transact any business in commerce involving live stock in or in connection with stockyards with any person who has not registered, if so required, in compliance with the provisions of Section 303 of Title III of the act."

And plaintiffs aver that, if said regulation is enforced by said Secretary of Agriculture, the plaintiffs and each of them, in the event that they fail to comply with the illegal requirement of said Section 303 and of the said Secretary of Agriculture to register thereunder, will be subjected not only to the infliction of the penalties provided in said Section 303, as hereinabove set out, but also will be prevented

from transacting any business with any person at said Union Stock Yards who has registered under the provisions of said Packers and Stockyards Act of 1921, and the requirements of the Secretary of Agriculture thereunder.

And plaintiffs aver that the enforcement of the provisions of said Section 303 and of the aforesaid regulation or one similar thereto by the said Secretary of Agriculture will deprive plaintiffs, and each of them, of their right to carry on their business as live stock commission merchants and will constitute an irreparable injury to them and each of them and the taking of their property without due process of law, in violation of the Fifth Article of the Amendments to the Constitution of the United States.

X.

And plaintiffs aver that said Title III of the Packers and Stockyards Act of 1921, and particularly Section 306 of said title is invalid and void because under its terms an attempt is made to empower the said Secretary of Agriculture with authority to fix, regulate and control the rates and charges collectible by plaintiffs and other market agencies as commissions for the performance by them of the personal services hereinabove in Heading V of this bill of complaint described, and plaintiffs aver that the requirement that the plaintiffs and other market agencies file their schedules of rates and charges with the Secretary of Agriculture within sixty days after notice has been given by the Secretary that a stockyard is within the provision of Section 302 and requiring that such schedules of rates and charges shall be printed and kept open to public inspection and designating what such schedules shall contain is illegal and void and unconstitutional and constitutes an attempt by Congress to regulate the private business of plaintiffs which is not justified by the Commerce Clause of the Constitution of the United States (Section 8, Article 1, Constitution of the United States) because the services performed by plaintiffs do not constitute interstate commerce and are not connected with or related to interstate commerce and have no effect whatever upon the free and unrestricted flow thereof between the states and such services are performed wholly within the State of Illinois.

And plaintiffs further aver that it is provided in and by

paragraph (g) of said Section 306 of Title III of said Packers and Stockyards Act of 1921 that

"Whoever fails to comply with the provisions of this Section or of any regulation or order of the Secretary made thereunder shall be liable to a penalty of not more than \$500 for each such offense, and not more than \$25 for each day it continues, which shall accrue to the United States and may be recovered in a civil action brought by the United States."

Plaintiffs aver that it is further provided in said Section 306 in paragraph (h) thereof as follows:

"Whoever willfully fails to comply with the provisions of this Section or of any regulation or order of the Secretary made thereunder shall on conviction be fined not more than \$1,000, or imprisoned not more than one year, or both."

And plaintiffs aver that unless they, and each of them, comply with the requirements of said Section 306 they will become liable to be proceeded against for the collection of said penalties provided for in paragraph (g) above set out which are of a cumulative character, and plaintiffs aver that they will also become liable to be proceeded against criminally and subjected to heavy fines or imprisonment, or both, as provided in paragraph (h).

And plaintiffs aver that they are without any adequate remedy at law by which the constitutionality and validity of the requirements and duties imposed by said Section 306 may be tested without subjecting themselves to the danger of the imposition of excessively heavy fines and penalties of a cumulative character under paragraph (g) above set out, and to the danger of a criminal prosecution and the possible imposition of a heavy fine or an imprisonment sentence, or both, under the provisions of paragraph (h) above set out.

XI.

Plaintiffs further aver that said Title III of said Packers and Stockyards Act of 1921, and each of the provisions thereof in so far as it affects or attempts to affect or in any manner control or relate to the business of plaintiffs and each of them is, and each provision thereof is, invalid and unconstitutional and beyond the powers of the Congress of the United States to enact under the Commerce Clause of the Constitution, being Section 8, Article 1, of the Constitution of the United States.

Title IV of said Packers and Stockyards Act of 1921, in so far as it relates to, or affects the business of plaintiffs and plaintiffs in the conduct of said business, is invalid and unconstitutional and not justifiable under the said Commerce Clause of the Constitution of the United States and is further invalid and unconstitutional and in violation of Article IV of the Amendments to the Constitution of the United States.

Plaintiffs aver that the provisions of Section 303 of Title III of said Packers and Stockyards Act of 1921, prohibit plaintiffs from carrying on their business except under pain of heavy and excessive penalties, cumulative in character, unless plaintiffs and each of them register with the Secretary of Agriculture, and that said Section 303 is invalid and unconstitutional and not justifiable by the said Commerce Clause of the Constitution of the United States and attempts to deprive plaintiffs of their property without due process of law, in violation of Article V of the Amendments to the Constitution of the United States.

And plaintiffs further aver that the provisions of Section 302, paragraph (a), of Title III of said Packers and Stockyards Act of 1921 is unconstitutional and invalid and in violation of Article V of the Amendments to the Constitution of the United States in that it excepts from the operations of said Title III and from the supervisory control of the Secretary of Agriculture all stockyards not having an area, exclusive of runs, alleys or passageways, of more than 20,000 square feet.

Plaintiffs further aver that said Title III and said Title IV and each of the provisions thereof, in so far as they affect or attempt to affect the plaintiffs and the conduct of their business by plaintiffs, are unconstitutional and invalid and in violation of Article X of the Amendments to the Constitution of the United States in that they constitute an attempt to regulate, control and interfere with the business of the plaintiffs of a wholly intrastate character and attempt, to regulate and control plaintiffs in the rendering of personal services not connected with, or a part of, interstate commerce.

And plaintiffs further aver that said Title III, and particularly Section 303 thereof, is invalid, unconstitutional and void, and its enforcement would be in violation of the rights of plaintiffs under Article V of the Amendment to the Constitution of the United States.

And plaintiffs aver that unless the said defendant Henry C. Wallace, Secretary of Agriculture, and Charles F. Clyne, United States Attorney for the Northern District of Illinois, are each restrained by the injunction of this Honorable Court from proceeding to enforce the provisions of said Title III and Title IV of said Packers and Stockyards Act of 1921 against them, and each of them, said plaintiffs, and each of them, will suffer irreparable damage and loss, and their business, and the business of each of them, will be ruined and destroyed unless they comply with the invalid and unlawful requirements of said Title III and Title IV and the various sections thereof herein in this bill set out and referred to.

And plaintiffs aver that they are without remedy save in a court of equity, as there is no way by which the constitutional questions presented by plaintiffs herein involving their right to conduct business, their business itself and their personal liberty can be brought before any court of law for consideration without the plaintiffs first being subjected to possible criminal proceedings with heavy punishments by way of imprisonment or fines to be imposed in case the validity of the statute should be upheld, or subjecting themselves to the possible imposition of heavy and excessive fines and penalties of a cumulative character collectible in a civil action against them to be prosecuted by the United States Attorney, the beginning of which action rests entirely upon the discretion as to time of the defendants herein, and subjecting plaintiffs meanwhile to a continued and ever-increasing burden of penalties accruing pending the beginning of such proceedings by the said Secretary of Agriculture and the United States Attorney, to which the plaintiffs, in the event that said law should be upheld as a constitutional enactment, would become liable.

And plaintiffs further allege that it is meet and proper that a court of equity should assume jurisdiction of this proceeding to avoid on the part of plaintiffs, and on the part of the defendants, a multiplicity of suits.

Forasmuch, therefore, as the plaintiffs are without remedy in the premises except in a court of equity, and to the end that the said defendants, Henry C. Wallace, Secretary of Agriculture of the United States, and Charles F. Clyne, United States Attorney within and for the Northern District of Illinois, who are hereby made parties defendant to this, the plaintiffs' bill of complaint, and each of them may

be required to make full, true and complete answer to this, the plaintiff's bill of complaint, but not under oath, their, and the answer of each of them under oath being hereby expressly waived; that the said defendant, Henry C. Wallace, as such Secretary of Agriculture, his agents, servants and representatives, may be perpetually restrained by the order of this court from enforcing the aforesaid Act of Congress entitled "An Act to regulate interstate and foreign commerce in live stock, live stock products, dairy products, poultry, poultry products, and eggs, and for other purposes," known as the "Packers and Stockyards Act, 1921," against the plaintiffs and each of them and from requiring the plaintiffs, and each of them, to comply with the provisions thereof, and particularly with the provisions of Titles III and IV of the aforesaid act, and from interfering, directly or indirectly, with the business of the plaintiffs, and each of them, under color of said act, or any pretended authority derived therefrom and from attempting by any of the means set out in the aforesaid Act of Congress, or by any other means, to compel the plaintiffs, and each of them, to comply with said Act of Congress, or any of the provisions thereof, and that the said defendant, Charles F. Clyne, United States Attorney within and for the Northern District of Illinois, may be perpetually restrained by the order of this court from instituting any civil proceeding or any criminal proceedings by way of presentment to a grand jury, or otherwise, against the plaintiffs, or any of them, for the collection of any penalties imposed by said Act of Congress for the nonobservance thereof, or any of the provisions thereof, and particularly for the collection or enforcement of any penalties provided by said Act of Congress for failure to observe the provisions of Titles III and IV of said Act of Congress and from instituting any criminal proceedings by presentment, or otherwise, against plaintiffs or any of them for the enforcement or imposition of any penalties by way of fines or imprisonments for the infraction of any of the provisions of said Act of Congress, and that the plaintiffs and each of them may have a temporary restraining order and temporary injunction in accordance with the prayer of this bill of complaint, and that they and each of them may have such other and further relief in the premises as equity may require and to your Honors seem meet.

May it please your Honors to grant unto the plaintiffs a writ of subpoena in chancery directed to the United States Marshal for the Northern District of Illinois, commanding

him that he summon the said defendants, Henry C. Wallace, Secretary of Agriculture of the United States, and Charles F. Clyne, United States Attorney within and for the Northern District of Illinois, commanding them, and each of them, personally to be and appear before this Honorable Court on the first day of the next term thereof, then and there to answer this, the plaintiff's bill of complaint, and to abide by and perform such order as the court may make in the premises.

And may it please your Honors to grant unto the plaintiffs a writ of injunction directed to the said defendants perpetually restraining them, and each of them, their agents and representatives, in manner and form aforesaid, and plaintiffs will ever pray, etc.

T. B. STAFFORD and

S. B. STAFFORD

and others, plaintiffs, named in paragraph I of this bill,

By SIMS, WELCH, GODMAN & DE
YOUNG,

Their Solicitors.

EDWIN W. SIMS,
ALBERT G. WELCH,
ELWOOD G. GODMAN,
FREDERIC R. DE YOUNG,
Solicitors for Plaintiffs.

State of Illinois, }
County of Cook. } ss.

S. BRUCE STAFFORD, being duly sworn, on his oath deposes and says that he is one of the above named plaintiffs in the foregoing bill of complaint; that he makes this affidavit at the request and by the authority, and on behalf of the plaintiffs; that he has been engaged in the live stock commission business at the Union Stock Yards at Chicago for more than thirty years last past; that he is acquainted with the nature of the business conducted by the plaintiffs as live stock commission men at the Union Stock Yards; that he has read the foregoing bill of complaint and knows the contents thereof and that the matters and things therein stated are true, except as to such matters and things as are therein stated to be alleged upon the information and belief of the plaintiffs,

and that as to such matters and things he believes them to be true.

Affiant further states that he verily believes that, unless restrained by the order of this Honorable Court, the said defendant, Henry C. Wallace, Secretary of Agriculture, will on December 1, 1921, proceed to enforce the aforesaid Act of Congress entitled "An Act to regulate interstate and foreign commerce in live stock, live stock products, dairy products, poultry, poultry products, and eggs, and for other purposes," known as the "Packers and Stockyards Act, 1921," against the plaintiffs, and each of them, and will require the plaintiffs, and each of them, after November 30, 1921, to cease doing business unless they, and each of them, have registered under the aforesaid act, to file schedules of their rates, commissions and charges with the Secretary of Agriculture, as required by said Act of Congress, and otherwise to comply with said act and the regulations of the Secretary of Agriculture to be promulgated thereunder, and particularly the aforesaid Regulation No. 22, Exhibit "B" to this bill of complaint, forbidding all stockyards owners and registrants and other persons to deal with any market agency not registered under said act and will cause civil and criminal proceedings to be instituted under said act against the plaintiffs and each of them to enforce their obedience to said act in the event they fail to observe the same, and will otherwise interfere with the plaintiffs and each of them in the carrying on of their business on and after December 1, 1921, and that the said defendant, Charles F. Clyne, as such United States Attorney, will, unless restrained by the order of this Honorable Court, institute civil and criminal proceedings against the plaintiffs, and each of them, to collect and enforce the fines and penalties provided by said Act of Congress to be imposed for a failure upon the part of market agencies, as described in said act, to observe the provisions of said act, as more particularly described in said bill of complaint, and that said action of the defendants will result in immediate and irreparable loss and damage to the plaintiffs.

S. BRUCE STAFFORD.

Subscribed and sworn to before me this 28th day of November, A. D. 1921.

D. J. WARD,
Notary Public.

(Notarial Seal)

EXHIBIT A.

Form PS-2

Registration Form
Market Agencies and Dealers

Registration No.

UNITED STATES DEPARTMENT OF AGRICULTURE

IMPORTANT:—Market agencies and dealers as described
on the back of this form are required to
fill it out and return promptly.

To the PACKERS AND STOCKYARDS ADMINISTRATION,
United States Department of Agriculture,
Washington, D. C.

Place

Date

- (1) Name
- (2) Address of place of business
Number of Street City or Town State
- (3) "Market agency" or "dealer"
(See definitions on back of this form)
- (4) Character of business and kinds of stockyard services, if any. (Strike out terms not applicable to the business.)
Kind of business:
(a) Commission Man. (b) Order Buyer. (c) Buyer. (d) Trader.
(e) Loans. (f) Any other services
Kind of live stock:
(a) Cattle. (b) Sheep. (c) Swine. (d) Goats. (e) Horses.
(f) Mules.
If registrant is an employee or agent, give name and address of
employer or principal
- (5) Individual, partnership, association or corporation
- (6) If association or corporation, designate the State Laws under which
organized and principal place of business
- (7) Give below names and addresses of owners, partners, or principal
officers to correspond with Line (5) above.
Name..... Title..... Address.....
Name..... Title..... Address.....
Name..... Title..... Address.....
Name..... Title..... Address.....
- (8) Give addresses of all branches of registrant's concern, also names and
addresses of subsidiary or affiliated concerns. (Use back of sheet
if necessary.)
.....
.....
.....

The above statements concerning the business of the registrant are,
to the best knowledge and belief of the registrant, true and correct.

- (9) SIGN HERE: Name to be registered
- (10) Name and title of official by whom signed

(OVER)

The following provisions of the "Packers and Stockyards Act, 1921" are quoted for the information of registrants:

Sec. 301 (b) The term "STOCKYARD SERVICES" means services or facilities furnished at a stockyard in connection with the receiving, buying or selling on a commission basis or otherwise, marketing, feeding, watering, holding, delivery, shipment, weighing, or handling, in commerce, of live stock.

(c) The term "MARKET AGENCY" means any person engaged in the business of (1) buying or selling in commerce live stock at a stockyard on a commission basis or (2) furnishing stockyard services; and

(d) The term "DEALER" means any person, not a market agency, engaged in the business of buying or selling in commerce live stock at a stockyard, either on his own account or as the employee or agent of the vendor or purchaser.

Sec. 303. After the expiration of thirty days after the Secretary has given public notice that any stockyard is within the definition of section 302, by posting copies of such notice in the stockyard, no person shall carry on the business of a market agency or dealer at such stockyard unless he has registered with the Secretary under such rules and regulations as the Secretary may prescribe, his name and address, the character of business in which he is engaged and the kinds of stockyard services, if any, which he furnishes at such stockyard. Whoever violates the provisions of this section shall be liable to a penalty of not more than \$500 for each such offense and not more than \$25 for each day it continues, which shall accrue to the United States and may be recovered in a civil action brought by the United States.

Sec. 306 (a) Within sixty days after the Secretary has given public notice that a stockyard is within the definition of section 302, by posting copies of such notice in the stockyard, the stockyard owner and every market agency at such stockyard shall file with the Secretary, and print and keep open to public inspection at the stockyard, schedules showing all rates and charges for the stockyard services furnished by such person at such stockyard. If a market agency commences business at the stockyard after the expiration of such sixty days such schedules must be filed before any stockyard services are furnished.

(b) Such schedules shall plainly state all such rates and charges in such detail as the Secretary may require, and shall also state any rules or regulations which in any manner change, affect, or determine any part or the aggregate of such rates or charges, or the value of the stockyard services furnished. The Secretary may determine and prescribe the form and manner in which such schedules shall be prepared, arranged, and posted, and may from time to time make such changes in respect thereto as may be found expedient.

“EXHIBIT B.”

Packers and Stockyards Administration,
U. S. Department of Agriculture,
Washington, D. C.

Proposed General Rules and Regulations for carrying out the provisions of Title III of the Packers and Stockyards Act, 1921, with respect to stockyard owners, market agencies, and dealers.

1. Registration (section 303, Title III) by market agencies and dealers shall be accomplished by properly filling out and delivering to the Packers and Stockyards Administration at Washington, D. C., by mail or otherwise, a form which will be furnished upon request for the purpose.

2. The schedule of rates and charges filed by each stockyard owner and market agency (section 306, Title III) shall plainly state the date when effective, the stockyards to which it applies, the name and business address of the stockyard owner or market agency, the kind of live stock, the nature of the service, and the terms and conditions under which the service will be rendered with respect to each rate or charge specified.

3. If the same schedule is to be observed by more than one market agency, one schedule will suffice for all market agencies at any one market observing it whose names and business addresses are shown on it, together with the name of the organization, if any, by which adopted.

4. Each market agency that is a cooperative association of producers shall expressly so state in its schedule, and shall also plainly state the method of distribution of its excess earnings.

5. Such further requirements in respect to such schedules shall be observed as shall from time to time be published by the Packers and Stockyards Administration under the direction of the Secretary.

6. Each stockyard owner and registrant shall give to the officer in charge of the Packers and Stockyards Administration or his duly authorized agent at such time in writing or otherwise and with or without oath or affirmation as

such officer or agent may require any information concerning the business of the stockyard owner or registrant. Each stockyard owner and registrant shall from time to time make general or special written reports concerning his business when requested by the officer in charge of the Packers and Stockyards Administration on blanks furnished by him for the purpose.

7. Each stockyard owner and registrant shall during ordinary business hours permit any representative of the Packers and Stockyards Administration designated by the officer in charge thereof to enter his place of business and inspect any or all property in his possession or control and all records pertaining to his business. Any necessary facilities for such inspection shall be extended to such representative by the stockyard owner or registrant, his agents and employees. Such representative shall be the Secretary's duly authorized agent for the purposes of these regulations.

8. Each stockyard owner shall furnish to the Packers and Stockyards Administration at Washington, D. C., as soon as practicable, true copies of all contracts, or changes therein, between such stockyard owner and packing, rendering serum, fertilizer, and other establishments relating to the handling of live stock in or in connection with the stockyards of such owner, except when it is found that copies of such documents in the form in which they are effective are already in the possession of the United States Department of Agriculture.

9. In addition to other necessary records an accurate record of number of head of daily receipts, sales, shipments, and local disposition of each class of live stock shall be kept by each stockyard owner.

10. Each stockyard owner and registrant shall report in writing to the Packers and Stockyards Administration at Washington, D. C., within ten days thereafter any change of address or in the management, control, ownership, or character of the business of such stockyard owner or registrant.

11. No agent or employee of the United States shall, without the consent of the stockyard owner or registrant concerned, divulge, or make known in any manner while he is such agent, or employee or thereafter, except to such other agent or employee of the United States as may be required to have such knowledge in the regular course of his official duties or except in so far as he may be directed by the Secretary or by a court of competent jurisdiction, any facts or

information regarding the business of any stockyard owner or registrant which may come to the knowledge of such agent or employee through any examination or inspection of the business or accounts of the stockyard owner or registrant or through any information given by the stockyard owner or registrant pursuant to these rules and regulations.

12. No stockyard owner or registrant shall destroy or dispose of any books, records, documents, or papers which contain or explain or modify the accounts of his business, without the consent in writing of the officer in charge of the Packers and Stockyards Administration at Washington, D. C.

13. A stockyard owner or registrant shall not make, issue, or circulate any false or misleading report or representation tending to depress or enhance the price of any live stock. The issuance or making public of market quotations or any statements to any person regarding the price at which any live stock has been sold, which quotations or statements cannot be verified from the records of such stockyard owner or registrant or by other stockyard owners or registrants or from an authorized governmental or other reliable source, shall be construed as making such a false or misleading report or representation.

14. A market agency shall not sell or dispose of live stock consigned to it to any person in whose business such market agency, or any stockholder, owner, officer, or salesmen thereof, has a pecuniary interest without promptly disclosing such fact to the owner or consignor of such live stock.

15. All feed supplied by a stockyard owner or market agency to live stock in stockyards shall be fit for feeding and shall be sold and accounted for by actual or carefully estimated weight and in conformity with the schedules filed by such stockyard owner or market agency with the Packers and Stockyards Administration.

16. Each stockyard owner and registrant who furnishes weighing facilities shall maintain and operate them so as to insure accurate weights.

17. A stockyard owner shall not discriminate unfairly in the allotment of pens, alleys, or buildings for the yarding or handling of live stock, or in the assignment of space for the erection or use of packing, rendering, and other establishments, or otherwise in the services and facilities of his stockyards.

18. Each stockyard owner and registrant shall exercise

special care in respect to yarding, feeding, watering, weighing or otherwise handling live stock to prevent waste of feed or shrinkage, injury, death, or other avoidable loss of live stock.

19. Each market agency shall use its best efforts to see that the requirements of the law and the rules and regulations with respect to the rendition of all stockyard services by stockyard owners are fully complied with in respect to live stock consigned to or handled by such market agency.

20. Each market agency shall before the close of the next business day following the sale of any live stock consigned to it for sale transmit or deliver to the owner or consignor of the live stock a true written account of such sale, showing the kind and number of animals sold, the weight, the price received, the name and address of the purchaser, and the date of sale, in addition to such other information as may be necessary to complete the account.

21. No stockyard owner or registrant shall record or report as having been sold, or render or cause to be rendered an account of sale of, any live stock not actually sold to a bona fide purchaser.

22. A stockyard owner or registrant shall not knowingly transact any business in commerce involving live stock in or in connection with stockyards with any person who has not registered, if so required, in compliance with the provisions of section 303 of Title III of the Act.

23. The officer in charge of the Packers and Stockyards Administration at Washington, D. C., shall perform for and under the supervision of the Secretary of Agriculture such duties as may be required in enforcing the Act and these rules and regulations.

(Endorsed) Filed Nov. 28, 1921. John H. R. Jamar, Clerk.

And on, to wit, the 29th day of November, 1921, came the Plaintiffs by their attorneys and filed in the Clerk's office of said Court their certain Motion for Temporary Injunction and for Temporary Restraining Order in words and figures following, to wit:

IN THE DISTRICT COURT OF THE UNITED STATES
Northern District of Illinois
Eastern Division.

T. B. Stafford and S. B. Stafford, Co- partners, doing business as Staf- ford Brothers, <i>et al.</i>	} In Equity.
<i>vs.</i>	
Henry C. Wallace, Secretary of Agri- culture, Charles F. Clyne, United States Attorney for the Northern District of Illinois.	

MOTION FOR TEMPORARY INJUNCTION AND FOR
A TEMPORARY RESTRAINING ORDER.

Now come the plaintiffs by their solicitors and move the court to grant a temporary injunction herein, restraining the defendant, Charles F. Clyne, United States Attorney within and for the Northern District of Illinois, his agents and representatives, from instituting any criminal proceedings by or through a presentment to a grand jury, or otherwise, against said plaintiffs for or upon account of any alleged violation by said plaintiffs of the terms of the aforesaid Act of Congress, and from instituting any civil proceedings against the said plaintiffs, or any of them, for the collection of any penalties imposed by said Act of Congress for a violation thereof or of any of the provisions thereof, and particularly for the collection or enforcement of any penalties provided by said Act of Congress for failure to observe the provisions of Titles III. and IV. of said Act of Congress.

And the plaintiffs further move the court to enter a temporary restraining order herein forthwith restraining the said defendants, and each of them, their agents, representatives, servants and employees, in the manner aforesaid, until this motion can be heard.

SIMS, WELCH, GODMAN & DE YOUNG
Solicitors for Plaintiff.

(Endorsed) Filed Nov 29-1921 John H. R. Jamar Clerk.

And on, to wit, the 29th day of November, 1921, came the Plaintiffs by their attorneys and filed in the Clerk's office of said Court their certain Motion for Interlocutory Injunction in words and figures following, to wit:

IN THE DISTRICT COURT OF THE UNITED STATES
Northern District of Illinois
Eastern Division

T. B. Stafford and S. B. Stafford, Co- partners, doing business as Staf- ford Brothers, <i>et al.</i>	} In Equity
<i>vs.</i>	
Henry C. Wallace, Secretary of Agri- culture, Charles F. Clyne, United States Attorney for the Northern District of Illinois.	

MOTION FOR INTERLOCUTORY INJUNCTION.

Now come the plaintiffs by their solicitors and present to the Honorable Kenesaw M. Landis, Judge of the District Court of the United States for the Northern District of Illinois, their application for an interlocutory injunction herein restraining the defendant, Henry C. Wallace, Secretary of Agriculture, his agents, servants, representatives, and employes from enforcing the Act of Congress entitled "An Act To regulate interstate and foreign commerce in live stock, live-stock products, dairy products, poultry, poultry products, and eggs and for other purposes" known as the "Packers and Stockyards Act, 1921" against the plaintiffs enumerated in the bill of complaint herein, and each of them, and from requiring the said plaintiffs and each of them to comply with the provisions of said Act of Congress and particularly with the provisions of Titles III and IV of said Act of Congress and from interfering directly or indirectly with the business of said plaintiffs, and each of them, under color of said Act or pretended authority derived therefrom and from attempting by any of the means set out in the said Act of Congress or by any other means to compel the said plaintiffs, or any of them, to comply with said Act of Congress or any of the provisions thereof, and restraining the said defendant, Henry C. Wallace, Secretary of Agriculture, his agents, servants, representatives and employes from enforcing or attempting to enforce against the plaintiffs his direction and order under the assumed authority of Section 303 of Title III to the plaintiffs to register with him upon

blanks furnished by him to the plaintiffs until the further order of the court.

And the said plaintiffs further move the court to immediately call to his assistance two additional judges to hear said application for an interlocutory injunction, one of whom at least shall be a circuit judge, in manner and form as provided by the Act of Congress of October 22, 1913, Stat. at Large, 219, which section is by reference made a part of said "Packers and Stockyards Act, 1921" in Section 316 thereof.

And in support of their said motion the plaintiffs and each of them show to the court here that a direction and order has been issued by the defendant, Henry C. Wallace, Secretary of Agriculture, directed against the plaintiffs and each of them as set up in their bill of complaint filed herein, requiring the plaintiffs, and each of them, to register with the defendant, Henry C. Wallace, Secretary of Agriculture pursuant to the terms of Section 303 of Title III of said Act of Congress upon certain forms furnished to the plaintiffs and each of them by said defendant, Henry C. Wallace, Secretary of Agriculture, for that purpose.

And that plaintiffs contend that such order is invalid and inoperative as to plaintiffs and its enforcement should be enjoined because plaintiffs are not engaged in Interstate Commerce as is shown by the description of the business of plaintiffs contained in said bill of complaint and that said plaintiffs are not properly subject to the jurisdiction of said Secretary of Agriculture under said "Packers and Stockyards Act, 1921."

Plaintiffs further say that as set up in their said bill of complaint the said "Packers and Stockyards Act, 1921" and particularly Titles III and IV thereof are in so far as the plaintiffs are concerned invalid and unconstitutional upon the grounds set up in said bill of complaint.

SIMS, WELCH, GODMAN & DE YOUNG
Solicitors for Plaintiffs

(Endorsed) Filed Nov 29-1921 John H. R. Jamar Clerk.

And on to-wit: the 2nd day of December, 1921, there was filed in the office of the Clerk of said Court a certain Special Appearance of Defendant, in words and figures following to-wit:

IN THE DISTRICT COURT OF THE UNITED STATES
Northern District of Illinois
Eastern Division.

T. B. Stafford and S. B. Stafford, Co-
Partners doing business as Staf-
ford Brothers, *et al.*,

vs.

Henry C. Wallace, Secretary of Agri-
culture, Charles F. Clyne, United
States Attorney for the Northern
District of Illinois.

In Equity
No. 2498

SPECIAL APPEARANCE OF DEFENDANT, HENRY C.
WALLACE, SECRETARY OF AGRICULTURE.

To the Honorable the Judges of said Court in Chancery
Sitting:

Comes now the defendant above named, Henry C. Wallace,
Secretary of Agriculture, United States Department of Agri-
culture, appearing specially for the sole purpose of this mo-
tion and for no other purposes, and objects to the jurisdic-
tion of this Court to make any order or decree therein as to
him, for the following reasons:

1. That said Defendant is duly appointed, qualified and
acting as Secretary of Agriculture, United States Depart-
ment of Agriculture, at Washington, District of Columbia,
and is an inhabitant and resident of the City of Washington,
District of Columbia.

2. That said defendant is not an inhabitant of the State
of Illinois, or the Northern District thereof.

3. That said defendant has not been served with process.

4. That this Court has no jurisdiction over said defend-
ant in this action.

CHARLES F. CLYNE,
*United States Attorney, Attorney
for defendant, Henry C. Wal-
lace.*

BAYARD T. HAINER,
*Attorney for the Packers and Stockyards
Administration, United States Depart-
ment of Agriculture,*

Of Counsel.

Endorsed: Filed Dec. 2, 1921, at o'clock John
H. R. Jamar, Clerk.

And on, to wit, the second day of December, 1921 came the Defendants by their attorney and filed in the Clerk's office of said Court their certain Motion to Dismiss Bill in words and figures following, to wit:

IN THE DISTRICT COURT OF THE UNITED STATES

Northern District of Illinois

Eastern Division.

T. B. Stafford and S. B. Stafford, Co-
partners, doing business as Staf-
ford Brothers, *et al.*

vs.

Henry C. Wallace, Secretary of Agri-
culture, Charles F. Clyne, United
States Attorney for the Northern
District of Illinois.

In Equity
No. 2498.

MOTION TO DISMISS BILL BY THE DEFENDANT,
CHARLES F. CLYNE, UNITED STATES DISTRICT
ATTORNEY FOR THE NORTHERN DISTRICT OF
ILLINOIS, ATTORNEY FOR DEFENDANTS.

To the Honorable Judges of Said Court in Chance:ry Sitting:

Now comes Charles F. Clyne, United States District Attorney for the Northern District of Illinois, Attorney for Defendants, and moves the Court to dismiss the bill of complaint herein filed in the above entitled cause upon the following grounds, to wit:

1. For want of jurisdiction of the defendants and the subject matter of this action.

2. For want of equity in the bill.

3. That the bill seeks to enjoin enforcement of a valid and constitutional Act of Congress, approved August 15, 1921, entitled "An Act To regulate interstate and foreign commerce in live-stock, live-stock products, dairy products, poultry, poultry products, and eggs, and for other purposes," commonly known as the Packers and Stockyards Act, 1921.

4. That said bill seeks to restrain and enjoin the enforcement of the criminal statute, to wit, the above Act of Con-

gress, and especially the provisions contained in Title II of said Act; and which said provisions of said Act are applicable to such persons as fall within the meaning and purview of the provisions of said Act, to wit, "market agency" engaged in the business of (1) buying or selling in commerce live-stock at a stockyard on a commission basis or (2) furnishing stockyard services.

CHARLES F. CLYNE,
United States Attorney, Attorney for
Defendants.

BAYARD T. HAINER,
Attorneys for the Packers and
Stockyards Administration,
U. S. Department of Agri-
culture, of Counsel.

(Endorsed) Filed Dec 2 1921 John H. R. Jamar Clerk.

And on to-wit: the seventh day of December, 1921, there was filed in the office of the Clerk of said Court a certain Chancery Subpoena with return thereon in words and figures following to-wit:

United States of America
Northern District of Illinois } ss:
Eastern Division

The President of the United States of America, To Henry C. Wallace, Secretary of Agriculture, Charles F. Clyne, United States Attorney for the Northern District of Illinois, Greeting:

We Command You and Every of You, That you be and appear before our Judges of our District Court of the United States of America for the Northern District of Illinois, at Chicago, in the Eastern Division of said District, on or before the twentieth day after service of this writ, exclusive of the day of service, to answer or otherwise defend against a certain bill in equity this day filed by T. B. Stafford and S. B. Stafford, Co-partners, doing business as Stafford Brothers, et al., in the Clerk's Office of said Court, in the City of Chicago, then and there to receive and abide by such judgment and decree as shall then or thereafter be made, upon

pain of judgment being pronounced against you by default. To the Marshal of the District of Columbia to Execute.

Witness the Honorable Kenesaw M. Landis, Judge of the District Court of the United States of America for the Northern District of Illinois, at Chicago aforesaid, this 28th day of November, in the year of our Lord One Thousand Nine Hundred and 21, and of our Independence the 146th year.

JOHN H. R. JAMAR,

(Seal)

Clerk.

Memorandum.

The defendants are required to file their answer or other defense in the Clerk's office on or before the twentieth day after service hereof upon them, excluding the day of service; otherwise the said bill may be taken *pro confesso*.

JOHN H. R. JAMAR,

Clerk.

(Endorsed) No. 2498 District Court of the United States Northern District of Illinois T. B. Stafford et al., vs. Henry C. Wallace, et al., Chancery Subpoena Filed Dec 7 1921 John H. R. Jamar Clerk. Sims, Welch, Godman & De Young. Complainant's Solicitor.

U. S. Marshal's Office,
Washington, D. C.,

December 5, 1921.

Served copy of the within Chancery Subpoena on the within named Henry C. Wallace, Secretary of Agriculture, in person, December 3, 1921.

MAURICE SPLAIN,

United States Marshal, District of Columbia.

1.00 Fee

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And on to-wit, the 20th day of December, 1921, there was filed in the office of the Clerk of said Court a certain Opinion in words and figures following to-wit:

IN THE UNITED STATES DISTRICT COURT

Northern District of Illinois

Eastern Division

T. B. Stafford, *et al.**vs.*Henry C. Wallace, Secretary of } In Equity
Agriculture, *et al.* } No. 2498

Before Evans, Landis and FitzHenry, sitting in banc to hear application for temporary injunction.

Per Curiam: The question for determination is the constitutionality of the "Packers and Stock Yards Act 1921." Complainants very squarely and ably presented their attack upon the Act, denying that the commerce regulated is interstate in character.

The Government by its motion to dismiss has chosen to accept the statement of facts set forth in complainants' bill.

We are not, however, called upon to dispose of all questions which may be raised by the enforcement of this Act, but merely to determine whether the business of the live stock commission men and dealers in live stock in the Chicago stock yards may be regulated by Congress. The reasonableness of any rules or regulations is not before us. Moreover, the Act may stand although certain sections of it may fall. Sec. 408.

In support of their positions complainants rely upon *Hammer v. Dagenhart*, 247 U. S. 251; *Hopkins v. U. S.*, 171 U. S. 578; *Pa. R. R. Co. v. Knight*, 192 U. S. 21; *Ward Packing Co. v. Federal Trade Commission*, 264 Fed. 330; *D. A. Winslow & Co. v. Federal Trade Commission* (Unreported C. C. A. Fourth Cir., Nov. 1, 1921, Federal Trade Commission Service, 2nd Ed., 637), and contend that the question is settled by these decisions. While the decision in *Hopkins v. U. S.*, *supra*, might well be cited by complainants with some confidence in support of their contention, we do not believe, in view of the language found in *Swift & Co. v. U. S.*, 196 U. S. 375, that this case controls the present controversy.

When does interstate commerce begin? When does it end? What are its instrumentalities, the agencies by which it is conducted? The answers to these questions may in them-

selves raise further questions. For example, a railroad engaged in carrying interstate shipments is subject to Congressional regulation under the commerce clause of the constitution. As incidental to this power Congress has enacted legislation requiring certain kinds of equipment and certain kinds of rolling stock, viz., engines with powerful search lights and boilers of a special type, and it has enacted legislation respecting the liability of the railroad to the employees who ride in the engine or upon the train and operate the cars engaged in carrying interstate commerce.

Likewise, Congress has within the exercise of its power enacted legislation regulating the feeding and handling of live stock in interstate shipment, required the erection of stock yards where the live stock may be unloaded and watered and fed in transit. It has authorized the preparation of the bill of lading used in interstate shipment. Illustrations could be multiplied indefinitely.

But the question recurs: when does the interstate shipment end? Does the handling of the stock by the live stock dealers and the live stock commission men in the stock yards commence after the interstate shipment is ended, or are they instrumentalities operating within one of the instrumentalities of interstate commerce? Is the terminal facility, so far as Congressional regulation is concerned, separate and distinct from the railroad engine or the railroad cars, the engineers and conductors? Or do they together combine to make up interstate commerce? May the regulation respecting the shipment of live stock in interstate commerce continue throughout the entire shipment, but at the terminal points escape the regulatory control of Congress? What brings the railroad companies, the servants engaged in operating them, the instrumentalities by which the business is conducted, within the provision of the commerce clause of the United States Constitution? Obviously and unquestionably it is the character of the commerce conducted. If the shipment, if the commodity carried be interstate as distinguished from intrastate, it and the instrumentalities by which it is carried are subject to regulation.

That the stockyards are subject to regulation as a part of the interstate shipment has been judicially determined and is not now challenged by complainants. The stock yards, the live stock depots of the railroads, are as necessary a part of the carriage as the passenger depots and the freight

depots, or as the yards into which interstate shipments are unloaded for the purpose of feeding and watering. If Congress can say to the railroads that the engine which is used to haul the interstate shipment is a subject of Congressional regulation, that the engineer who sits in the cab and operates the engine is such a subject, that his contract and his claim for liability in case of death and his hours of service may be regulated by act of Congress, then can the court deny to the same body the right to legislate respecting the terminal facilities, the stock yards, the instrument as essential to the completed interstate shipment as the engine or the engineer.

Are stock yards, which are nothing more than mere live stock depots into and through which the current of interstate commerce flows, instrumentalities of interstate commerce?

The answer must be in the affirmative, for the stock yards are as distinctly employed in that commerce and are as indispensable to it as are the cattle cars, engines and rails of the railroad which bring the subject matter of the commerce from one state to the stock yards in another, for sale for slaughter or reconsignment.

When once we consider that the stock yards themselves are instrumentalities of interstate commerce, then, the conclusion is irresistible that the regulatory powers of Congress apply to those engaged in or participating in that commerce within the stock yards, and we think that the Supreme Court in *Swift v. United States*, supra, meant to cover this situation when it said:

"When cattle are sent for sale from a place in one State, with the expectation that they will end their transit, after purchase, in another, and when in effect they do so, with only the interruption necessary to find a purchaser at the stock yards, and when this is a typical, constantly recurring course, the current thus existing is a current of commerce among the States, and the purchase of the cattle is a part and incident of such commerce."

The recent decision of the Supreme Court in *Dahnke-Walker Milling Company v. C. T. Bondurant* likewise supports this conclusion. The court says:

"Such commerce is not confined to transportation from one State to another, but comprehends all commercial intercourse between different States and all the component parts of that

intercourse. Where goods in one State are transported into another for purposes of sale the commerce does not end with the transportation, but embraces as well the sale of the goods after they reach their destination and while they are in the original packages. *Brown v. Maryland*, 12 Wheat, 419, 446-447; *American Steel & Wire Co. v. Speed*, 192 U. S. 500, 519. On the same principle, where goods are purchased in one State for transportation to another the commerce includes the purchase quite as much as it does the transportation. * * * In no case has the court made any distinction between buying and selling or between buying for transportation to another State and transporting for sale in another State. Quite to the contrary, the import of the decisions has been that if the transportation was incidental to buying or selling it was not material whether it came first or last."

The motion for a temporary injunction is denied.

(Endorsed) Filed Dec 20-1921 John H. R. Jamar Clerk.

And afterwards, to wit, on the 31st day of December, 1921, being one of the days of the regular December term of said Court, in the record of proceedings thereof, in said entitled cause, appears the following entry, to wit:

IN THE DISTRICT COURT OF THE UNITED STATES,
Northern District of Illinois,
Eastern Division.

T. B. Stafford and S. B. Stafford, Co-partners, doing business as Stafford Brothers, <i>et al.</i>	}	In Equity No. 2498
<i>vs.</i>		
Henry C. Wallace, Secretary of Agriculture, and Charles F. Clyne, United States Attorney for the Northern District of Illinois.	}	

And now on this day this cause having come on to be heard upon the verified bill of complaint herein, the plaintiffs' application for an interlocutory injunction herein against the defendant, Henry C. Wallace, Secretary of Agriculture, in manner and form as prayed in the plaintiffs' writ-

ten motion for such interlocutory injunction heretofore on the 29th day of November, 1921, filed herein, before the Honorable Evan A. Evans, United States Circuit Judge for the Seventh Circuit, Honorable Kenesaw M. Landis, Judge of the District Court of the United States for the Northern District of Illinois, and Honorable Louis FitzHenry, Judge of the District Court of the United States for the Southern District of Illinois, convened by the Honorable Kenesaw M. Landis, Judge of the District Court of the United States for the Northern District of Illinois, for the purpose of hearing said application of the plaintiffs for said interlocutory injunction pursuant to Section 316 of Title III of the Act of Congress entitled "An Act to Regulate Interstate and Foreign Commerce in Live stock, live stock products, dairy products, poultry, poultry products, and eggs, and for other purposes," known as "The Packers and Stockyards Act, 1921," and upon the plaintiffs' motion for a temporary injunction and for a temporary restraining order based upon said verified bill of complaint against the said defendant, Charles F. Clyne, United States Attorney for the Northern District of Illinois, pursuant to the terms of the plaintiffs' written motion for such temporary injunction and temporary restraining order heretofore on the 29th day of November, 1921, filed herein, and upon the defendants' written motion to dismiss the bill of complaint herein for want of equity heretofore on the 2nd day of December, 1921, filed herein, and it appearing to the Court that the Attorney General of the United States had due notice of said application for said interlocutory injunctions, and the said defendants, and each of them, appearing in open court by Charles F. Clyne, United States Attorney for the Northern District of Illinois, and Bayard T. Hainer, Attorney for the Packers and Stockyards Administration of the Department of Agriculture of the United States, their solicitors; and the court having considered said verified bill of complaint and said several motions of the plaintiffs for interlocutory and temporary injunctions and a temporary restraining order, as aforesaid, and said motion of the defendants to dismiss said bill of complaint, and having heard the arguments of counsel for the respective parties hereto, and being now fully advised in the premises,

It Is, Therefore, Ordered that the plaintiffs' said motion for an interlocutory injunction against the said defendant, Henry C. Wallace, Secretary of Agriculture, be, and the same hereby is, overruled and denied, and that an interlocu-

tory injunction against said Henry C. Wallace, Secretary of Agriculture, as prayed in said motion be, and the same hereby is, denied, to which action and ruling of the court the plaintiffs, and each of them, by their solicitors, except; and that the plaintiffs' said motion for a temporary injunction and temporary restraining order against the said defendant, Charles F. Clyne, United States Attorney for the Northern District of Illinois, be, and the same hereby is, overruled and denied, and that a temporary injunction and temporary restraining order against the said defendant, Charles F. Clyne, United States Attorney for the Northern District of Illinois, as prayed in said motion be, and the same hereby is, denied, to which action and ruling of the court the plaintiffs, and each of them, by their solicitors, except.

And the plaintiffs, by their solicitors, having filed herein their petition for an appeal from this order to the Supreme Court of the United States and having filed herein their assignments of error with said petition for appeal,

It Is Ordered that the said appeal be, and the same hereby is, allowed upon the plaintiffs filing herein a bond in the sum of five hundred (\$500.00) Dollars to be signed by at least one of said plaintiffs, with good and sufficient surety to be approved by the court.

It Is Further Ordered that a transcript of the record herein be forthwith transmitted by the Clerk of the District Court of the United States for the Northern District of Illinois, Eastern Division, to the Supreme Court of the United States for the purpose of enabling said Supreme Court of the United States to pass upon and decide said appeal.

This Order is entered by direction of the court nunc pro tunc as of December 28th, 1921.

Enter

KENESAW M. LANDIS.

O. K.

CHAS F. CLYNE, C. L. S.
U. S. Dist. Atty.

And on, to wit, the 31st day of December, 1921, came the Plaintiffs by their attorneys and filed in the Clerk's office of said Court their certain Petition for Allowance of Appeal in words and figures following, to wit:

IN THE DISTRICT COURT OF THE UNITED STATES,
 Northern District of Illinois,
 Eastern Division.

T. B. Stafford and S. B. Stafford, co-partners, doing business as Stafford Brothers, <i>et al.</i>	} In Equity No. 2498.
<i>vs.</i>	
Henry C. Wallace, Secretary of Agriculture and Charles F. Clyne, United States Attorney for the Northern District of Illinois.	

PETITION FOR ALLOWANCE OF APPEAL.

T. B. Stafford and S. B. Stafford, co-partners, doing business as Stafford Brothers; D. L. Trout and F. L. Trout, co-partners, doing business as Trout Live Stock Commission Co.; G. L. Wheeler and S. K. Polley, co-partners, doing business as Emmett, Wheeler & Polley; N. W. Cochran, A. M. Henneberry and R. W. Wallace, co-partners, doing business as Cochran & Henneberry; George W. VonBerner and Harry L. Dunning, co-partners, doing business as VonBerner, Dunning & Co.; J. P. Maley and H. L. Carpenter, co-partners, doing business as Maley, Carpenter & Co.; H. J. Whalen and H. P. Siet, co-partners, doing business as Whalen, Siet & Co.; W. H. Sherwood and R. H. Sherwood, co-partners, doing business as Harry Sherwood & Son; C. S. Horn, W. H. Chisholm, L. B. Yancey and M. M. McIlhany, co-partners, doing business as Horn-Yancey-Chisholm Co.; S. G. Gillogly, R. E. Gillogly, F. D. Gillogly and M. W. Gillogly, co-partners, doing business as Gillogly & Co.; Kay Wood and Charles A. Wood, co-partners, doing business as Wood Brothers; T. Tipton, E. M. Steck and W. P. Herrick, co-partners, doing business as Tipton, Steck & Herrick; G. R. Sinclair and C. H. Gillett, co-partners, doing business as Sinclair, Gillett & Co.; P. T. Dolan and F. C. Ludeman, co-partners, doing business as Dolan, Ludeman & Co.; F. W. Sheldon and J. P. Sarsfield, co-partners, doing business as Sheldon & Sarsfield Commission Co.; W. P. Collings and F. J. Collings, copartners, doing business as W. P. Collings & Sons; J. P. Shinn, I. O. Fry and C. H. Moberly, co-partners, doing business as Shinn, Fry &

Moberly; Wm. Gentleman, Wm. M. Gentleman, A. M. Gentleman, C. F. Gentleman and G. J. Gentleman, co-partners, doing business as Wm. Gentleman & Sons; E. L. Clark and Louis Armbrecht, co-partners, doing business as Clark, Armbrecht & Co.; P. A. Filler, P. W. Wilson and G. H. McClelland, co-partners, doing business as Filler, Wilson & McClelland; J. J. Sullivan and J. C. Sullivan, co-partners, doing business as Sullivan Commission Co.; Curtis A. Wood and Walter R. Wood, co-partners, doing business as Curtis A. Wood & Co.; G. S. Freeman and P. J. Fitzgerald, co-partners, doing business as Freeman, Fitzgerald & Co.; John E. Quinn and J. B. Cahill, co-partners, doing business as Quinn & Cahill, Everett C. Brown and S. B. St. John, co-partners, doing business as Brown-St. John Company; J. F. Cross and H. G. Sommers, co-partners, doing business as Cross, Sommers & Co.; O. A. Rice and C. R. Rice, co-partners, doing business as Rice Bros.; E. H. Baker, A. C. Baker and F. L. Heyne, co-partners, doing business as Baker, Heyne & Co.; C. H. Stephens and J. A. Goble, co-partners, doing business as Stephens, Goble & Co.; John Clay, C. O. Robinson, C. A. Kleman, F. H. Connor and John G. Forrest, co-partners, doing business as Clay, Robinson & Co.; John T. Martin, James G. Martin, George E. Martin and W. S. Burmister, co-partners, doing business as Martin Brothers & Co.; W. W. Wilson and C. A. Wilson, co-partners, doing business as W. W. Wilson & Co.; Wm. R. Smith, John Smith and J. C. Eastes, co-partners, doing business as W. R. Smith & Son; J. E. Strader and J. L. Strader, co-partners, doing business as Strader Bros.; I. W. Knettle and E. Knettle, co-partners, doing business as Knettle Bros.; George J. Adams and A. W. Kitchin, co-partners, doing business as Adams & Kitchin; H. E. Thompson and C. N. Ball, co-partners, doing business as Thompson & Ball; George M. Brownson and J. L. Ettlinger, co-partners, doing business as Brownson & Ettlinger; A. A. Walters, C. A. Dunbar and J. H. Dunbar, co-partners, doing business as Walters & Dunbar; W. A. Peterson and Wm. Turnbull, co-partners, doing business as Peterson, Turnbull & Co.; John G. Adler and A. E. Adler, co-partners, doing business as Adler Sons & Co.; A. F. Starrett, Jr., O. A. Mathison, A. C. Granger and M. E. Peschong, co-partners, doing business as Starrett, Mathison & Co.; J. B. Roach and W. P. Roach, co-partners, doing business as Roach Live Stock Commission Co.; C. M. Godfrey and D. T. Stockdale, co-partners,

doing business as Godfrey & Stockdale; Silas Palmer and W. H. Palmer, co-partners, doing business as Silas Palmer & Sons; C. L. Swanson, A. Gilmore, and C. J. Castenholz, co-partners, doing business as Swanson, Gilmore & Castenholz; J. D. Smittle and J. C. Riley, co-partners, doing business as Smittle & Riley; A. Wertheimer, E. H. Ingwersen, A. C. Bonoff, J. H. Ingwersen, D. C. Mosier, D. R. Ingwersen and H. K. Wertheimer, co-partners, doing business as Ingwersen Bros.; George F. Hogan, doing business as George F. Hogan & Co.; T. B. Vincent, doing business as Paris Commission Co.; C. L. Burnett, doing business as Abe Burnett & Co.; E. A. Clark, doing business as Clark, Bowles & Co.; S. S. Driver, doing business as S. S. Driver & Co.; Will J. Nalley, doing business as Will J. Nalley & Co.; B. F. Hubbard, doing business as Minter, Hubbard & Co.; J. H. Piatt, doing business as Abner Piatt & Co.; W. C. Patterson, doing business as John Patterson & Son; James W. Eastland, doing business as James W. Eastland & Co.; M. B. Johns, doing business as M. B. Johns & Co.; R. H. Pritchard, doing business as Pritchard Commission Co.; T. C. McDermott, doing business as T. C. McDermott & Co.; W. E. Young, doing business as W. E. Young & Co.; G. B. VanNorman, doing business as G. B. VanNorman & Co.; Earl H. Kuenster, doing business as Kuenster Live Stock Commission Co.; Frank R. Mullen, doing business as Mullen Commission Co.; W. H. Walter, doing business as Walter Bros.; R. S. Murray, doing business as Murray & McDowell; James L. Evans, doing business as James L. Evans & Co.; Abe Russell, doing business as Abe Russell & Co.; L. Spencer, doing business as L. Spencer & Co.; Fred Freeman, doing business as Fred Freeman & Co.; A. F. Steward, doing business as A. F. Steward & Co.; Charles E. Harding, doing business as Chas. E. Harding & Co.; James R. Clegg, doing business as James R. Clegg & Co.; Jet Wimp, doing business as Jet Wimp & Co.; R. C. Bohart, doing business as R. C. Bohart & Co.; William Frow; A. B. Daniels; L. B. Werden; Chris A. Ingwersen; John A. Babcock; Rosenbaum Brothers & Co., a corporation; Drovers Commission Co., a corporation; J. M. Doud & Co., a corporation; Evans, Snider, Buel Commission Co., a corporation; Miller, White & Woods, a corporation; Nixon Live Stock Commission Co., a corporation; Alexander, Conover & Martin, a corporation; Hefner Commission Co., a corporation; Lawler Bros. & Co., a corporation; Stockmens Live Stock Commission Co., a corporation; Central

Live Stock Commission Co., a corporation; Swiney Bros., a corporation; Standard Live Stock Commission Co., a corporation; McCausland, Hoag & Vaughan, a corporation; Iowa Live Stock Commission Co., a corporation; Northwestern Live Stock Commission Co., a corporation; Conklin Bros. Commission Co., a corporation; H. D. Copeland & Co., a corporation; National Live Stock Commission Co., a corporation; North American Live Stock Commission Co., a corporation; Byers Bros. & Co. Live Stock Commission Corporation; Lee Live Stock Commission Co., a corporation, and Bowles Live Stock Commission Co., a corporation, conceiving themselves to be aggrieved by the decree and order of this court entered on the thirty-first day of December, 1921, nunc pro tunc as of December 28th, 1921, denying the applications and motions of plaintiffs for an interlocutory injunction and temporary injunction and temporary restraining order against the defendants herein as prayed in plaintiffs' verified bill of complaint, do hereby appeal from said decree and order to the Supreme Court of the United States for the reasons specified in the assignments of error this day filed herein, and pray that this appeal may be allowed and that a transcript of the record and all proceedings herein be forthwith transmitted to said Supreme Court of the United States.

(Sgd) EDWIN W. SIMS
ALBERT G. WELCH
ELWOOD G. GODMAN
FREDERIC R. DE YOUNG
Solicitors for Plaintiffs.

(Endorsed) Filed Dec 31-1921 John H. R. Jamar Clerk.

And on, to wit, the 31st day of December, 1921, came the Plaintiffs by their attorneys and filed in the Clerk's office of said Court their certain Assignments of Error in words and figures following, to wit:

IN THE DISTRICT COURT OF THE UNITED STATES

Northern District of Illinois

Eastern Division

T. B. Stafford and S. B. Stafford, Co-
partners, doing business as Staf-
ford Brothers, *et al.*,

vs.

Henry C. Wallace, Secretary of
Agriculture, and Charles F. Clyne,
United States Attorney for the
Northern District of Illinois.

In Equity
No. 2498.

ASSIGNMENTS OF ERROR.

Now come the plaintiffs herein and file the following assignments of error, upon which they rely as grounds for reversal upon appeal from the order and decree of the District Court of the United States for the Northern District of Illinois entered on the thirty-first day of December, 1921, *nunc pro tunc* as of December 28th, 1921, denying the application and motion of the plaintiffs for an interlocutory injunction and temporary injunction and temporary restraining order against the defendants herein as prayed in plaintiffs' bill of complaint:

1. The District Court erred in denying the said motion and application of plaintiffs for an interlocutory injunction based upon the verified bill of complaint of plaintiffs filed herein and in accordance with the prayer thereof.

2. The District Court erred in refusing to grant an interlocutory injunction as prayed in said verified bill of complaint of plaintiffs filed herein and in accordance with the prayer thereof.

3. The District Court erred in denying the said motion of plaintiffs for a temporary restraining order based upon the verified bill of complaint of plaintiffs filed herein and in accordance with the prayer thereof.

4. The District Court erred in refusing to grant the temporary restraining order prayed for in said bill of complaint of plaintiffs filed herein and in accordance with the prayer thereof.

5. The District Court erred in denying the said motion of plaintiffs for a temporary injunction based upon the verified bill of complaint of plaintiffs filed herein and in accordance with the prayer thereof.

6. The District Court erred in refusing to grant a temporary injunction as prayed for in said bill of complaint of plaintiffs filed herein and in accordance with the prayer thereof.

7. The District Court erred in holding that the Act of Congress known as the Packers and Stockyards Act, 1921, was a valid and legal enactment in respect to the business of the plaintiffs and the conduct thereof by them.

8. The District Court erred in holding that the business of the plaintiffs, and each of them, as described in their said bill of complaint herein was and is of an interstate character and subject to regulation by the Congress of the United States under Section 8, Article 1 of the Constitution of the United States.

9. The District Court erred in refusing to hold that the business of plaintiffs, and each of them, as described in their said bill of complaint was and is an intrastate business and in failing and refusing to hold that plaintiffs, and each of them, and their said business are not subject to regulation or control by act of Congress and are not subject to the provisions of said Packers and Stockyards Act, 1921.

10. The District Court erred in failing and refusing to hold that the provisions of Section 303 of Title III of said Packers and Stockyards Act, 1921, are invalid and unconstitutional as applied to the plaintiffs, and each of them, and their business as described in the said bill of complaint and in violation of said Section 8, Article 1 of the Constitution of the United States and in violation of the constitutional rights of plaintiffs, and each of them, not to be deprived of their property without due process of law under Article V of the Amendments to the Constitution of the United States.

11. The District Court erred in failing and refusing to hold that Title III and Title IV of said Packers and Stockyards Act, 1921, and each of the provisions thereof, in so far as they affect or attempt to affect the plaintiffs, and each of them, and the conduct of their business by plaintiffs, and each of them, are unconstitutional and invalid and in violation of Article X of the Amendments to the Constitution of the United States.

12. The District Court erred in failing and refusing to hold that Title III of said Packers and Stockyards Act, 1921, and each of the provisions thereof, in so far as it affects or attempts to affect or in any manner control the business of plaintiffs, and each of them, and their control, management and conduct thereof, is, and each provision thereof is, invalid and unconstitutional and beyond the powers of the Congress of the United States to enact under Section 8, Article 1 of the Constitution of the United States.

13. The District Court erred in failing and refusing to hold that the provisions of Section 302, paragraph (a) of Title III of said Packers and Stockyards Act, 1921, are unconstitutional and invalid and in violation of Article V of the Amendments to the Constitution of the United States for the reason that said Section excepts from the operations of said Title III and from the supervisory control of the Secretary of Agriculture all stockyards not having an area, exclusive of runs, alleys, or passageways, of more than 20,000 square feet.

14. The District Court erred in failing and refusing to hold that Title IV of said Packers and Stockyards Act, 1921, and particularly Section 401 of said Title IV, is unconstitutional and invalid as applied to plaintiffs, and each of them, and their said business and in violation of Article IV of the Amendments to the Constitution of the United States.

Wherefore, plaintiffs pray that the order and decree of the District Court be reversed and that this case be remanded to said District Court with directions to grant an interlocutory injunction and temporary injunction and temporary restraining order in accordance with the prayer of said bill of complaint.

(Sgd) EDWIN W. SIMS,
ALBERT G. WELCH,
ELWOOD G. GODMAN,
FREDERIC R. DE YOUNG,
Solicitors for Plaintiffs.

(Endorsed) Filed Dec 31-1921 John H. R. Jamar Clerk.

And on towit: the 31st day of December, 1921, came T. B. Stafford and S. B. Stafford, Co-partners, doing business as Stafford Brothers, as principal, and Aetna Casualty & Surety Company, as sureties, and filed in the office of the Clerk of said Court a certain Bond on Appeal in words and figures as follows, to-wit:

Know All Men by These Presents, That we, T. B. Stafford and S. B. Stafford, Co-Partners, doing business as Stafford Brothers, as principal, and Aetna Casualty & Surety Company, as sureties, are held and firmly bound unto Henry C. Wallace, Secretary of Agriculture, and Charles F. Clyne, United States Attorney for the Northern District of Illinois, in the full and just sum of five hundred dollars (\$500.) to be paid to the said Henry C. Wallace, Secretary of Agriculture and Charles F. Clyne, United States Attorney for the Northern District of Illinois, attorneys, executors, administrators, or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents.

Sealed with our seals and dated this thirtieth day of December in the year of our Lord one thousand nine hundred and twenty-one.

Whereas, lately at a session of the District Court of the United States for the Northern District of Illinois, held at Chicago in said Northern District of Illinois, in a suit pending in said Court, between T. B. Stafford and S. B. Stafford, Co-Partners, doing business as Stafford Brothers, and others, plaintiffs, and Henry C. Wallace, Secretary of Agriculture, and Charles F. Clyne, United States Attorney for the Northern District of Illinois, defendant, a decree and order was rendered against the said T. B. Stafford and S. B. Stafford, Co-Partners doing business as Stafford Brothers, and others, denying the motion and application of plaintiffs for an interlocutory injunction and temporary injunction and restraining order, and the said T. B. Stafford and S. B. Stafford, Co-Partners, doing business as Stafford Brothers, and others, having obtained from said Court an order allowing an appeal to the United States Supreme Court, and a citation directed to the said Henry C. Wallace, Secretary of Agriculture, and Charles F. Clyne, United States Attorney for the Northern District of Illinois, citing and admonishing

them to be and appear at the United States Supreme Court, to be holden at Washington, D. C. within thirty days from the date hereof.

Now, the Condition of the Above Obligation Is Such, That if the said T. B. Stafford and S. B. Stafford, Co-Partners, doing business as Stafford Brothers, and others, shall prosecute their said appeal to effect, and shall answer all damages and costs that may be awarded against them if they fail to make their plea good, then the above obligation to be void; otherwise to remain in full force and virtue.

Scaled and delivered in presence of—

(Sgd) T. B. STAFFORD AND S. B. STAFFORD,
Co-Partners doing business as Stafford Brothers. (Seal)

(Sgd) THE AETNA CASUALTY AND SURETY COMPANY,

By—CHESTER A. STRAIL. (Seal)

O. K.

CHAS F. CLYNE—C. L. S.
US. Dist. Atty.

Approved by—

K M L
D. J.

(Endorsed) Filed Dec 31-1921 John H. R. Jamar Clerk.

And on, to wit, the third day of January, 1922, came the Appellants by their attorneys and filed in the Clerk's office of said Court a certain Notice in words and figures following, to wit:

IN THE DISTRICT COURT OF THE UNITED STATES

For the Northern District of Illinois

Eastern Division.

January 3, 1922.

T. B. Stafford, *et al.*,

vs.

Henry C. Wallace, Secretary of Agriculture and Charles F. Clyne, United States Attorney for the Northern District of Illinois, Eastern Division.

} In Equity
No. 2498

To Charles F. Clyne, United States Attorney, 826 Federal Building, Chicago.

In accordance with Rule 8 of the Rules of the Supreme Court of the United States you are hereby served with copy of praecipe for record filed in the office of the Clerk of the District Court of the United States for the Northern District of Illinois, Eastern Division on this date, asking for a transcript of the record in the above entitled cause.

SIMS, WELCH, GODMAN & DE YOUNG,
Attorneys for Appellants.

Receipt is acknowledged this 3rd day of January, 1922.

CHARLES F. CLYNE,
By C. L. S.,
U. S. Dist. Atty.

(Endorsed) Filed Jan. 3, 1922. John H. R. Jamar, Clerk.

IN THE DISTRICT COURT OF THE UNITED STATES

Northern District of Illinois

Eastern Division

T. B. Stafford and S. B. Stafford, Co-partners, doing business as Stafford Brothers, <i>et al</i> ,	}	In Equity No. 2498
<i>vs.</i> Henry C. Wallace, Secretary of Agriculture, and Charles F. Clyne, United States Attorney for the Northern District of Illinois.		

PRAECIPE FOR RECORD.

To the Clerk of the District Court:

You are requested to take a transcript of record to be filed in the United States Supreme Court pursuant to an appeal allowed in the above entitled cause and to include in such transcript of record the following, and no other, papers or exhibits, to-wit:

1. Placita.
2. Bill of Complaint.
3. Summons.
4. Copy of Motion for Interlocutory Injunction.
5. Copy of Motion for Temporary Restraining Order.
6. Copy of Defendants' Motion to Dismiss.
7. Copy of Order of District Court overruling and denying Plaintiffs' motion and application for an Interlocutory Injunction and a Temporary Injunction and Temporary Restraining Order and allowing an appeal from such Order and fixing the amount of bond to be given upon appeal.
8. Copy of Petition for Appeal.
9. Copy of Assignments of Error.
10. Copy of Citation.

11. Copy of Bond.
12. Copy of Opinion of Court.

Respectfully,

EDWIN W. SIMS,
ALBERT G. WELCH,
ELWOOD G. GODMAN,
FREDERIC R. DEYOUNG,
Attorneys for Appellants.

(Endorsed) Filed Jan 3 1922 John H. R. Jamar Clerk.

Northern District of Illinois } ss.
Eastern Division

I, John H. R. Jamar, Clerk of the District Court of the United States for the Northern District of Illinois, do hereby certify the above and foregoing to be a true and complete transcript of the proceedings had of record made in accordance with Praecipe filed in this Court in the cause entitled T. B. Stafford, and S. B. Stafford, Co-partners, doing business as Stafford Brothers, et al, vs. Henry C. Wallace, Secretary of Agriculture, and Charles F. Clyne, United States Attorney for the Northern District of Illinois, as the same appear from the original records and files thereof now remaining in my custody and control.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Court at my office, in the City of Chicago, in said District, this 5th day of January, A. D. 1922.

JOHN H. R. JAMAR,
Clerk.

UNITED STATES OF AMERICA, ss.

The President of the United States, To Henry C. Wallace, Secretary of Agriculture, Washington, D. C. and Charles F. Clyne, United States Attorney for the Northern District of Illinois, Chicago, Illinois, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, at Washington, D. C., within thirty days from the date hereof, pursuant to an ap-

peal to said Supreme Court from an Order and Decree filed in the Clerk's Office of the District Court of the United States for the Northern District of Illinois, Eastern Division, wherein T. B. Stafford and S. B. Stafford, Co-partners, doing business as Stafford Brothers, and others are plaintiffs and you are defendants, to show cause, if any there be, why the Order and Decree rendered against the said T. B. Stafford and S. B. Stafford, Co-partners, etc., and others, as in the said Order and Decree mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Kenesaw M. Landis, Judge of the District Court of the United States, this thirtieth day of December, in the year of our Lord one thousand nine hundred and twenty-one.

KENESAW M. LANDIS,
District Judge.

Accept service 1-5-22

CHARLES F CLYNE

U S Atty

Per W A S.

On this 5th day of January, in the year of our Lord one thousand nine hundred and twenty-two, personally appeared James P. Carey before me, the subscriber, and makes oath that he delivered a true copy of the within citation to Charles F. Clyne, United States Attorney.

Sworn to and subscribed the 5th day of January A. D. 1922.

JAMES P. CAREY.
J. J. SHOEMAKER,
Chief Deputy Clerk.

Seal

(Endorsed) No. 2498 Supreme Court of the United States. T. B. Stafford and S. B. Stafford, Co-partners, doing business as Stafford Brothers, et al, Appellants, vs. Henry C. Wallace, Secretary of Agriculture, and Charles F. Clyne, United States Attorney for the Northern District of Illinois, Appellees. Citation to the Supreme Court of the United States. Filed Jan 5 1922 at o'clockM. John H. R. Jamar Clerk.